



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, OPC, CNR, MNR, OLC, LRE, RR, FF

Introduction.

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The tenant applied for an order to cancel the notice to end tenancy and for various items of relief.

The landlord served the tenant with a copy of his application and a notice of hearing by registered mail and filed a tracking slip. Despite having made application and having been notified of the landlord's application, the tenant did not attend the hearing. Therefore the tenant's application is dismissed. The landlord, represented by his agent attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order for unpaid rent and the filing fee?

Background and Evidence

The tenancy started on November 01, 2011. The monthly rent is \$1,200.00 payable on the first of the month. Neither party filed a copy of a tenancy agreement

The tenant fell back on rent right from the start of tenancy. On January 31, 2012, the landlord served the tenant with a one month notice to end tenancy for repeatedly late payment of rent. On February 02, 2012, the landlord served the tenant with a ten day notice to end tenancy for unpaid rent. The landlord filed a hand written account of rent owed including the dates partial payments were made.

The tenant owes rent as follows:

November 2011	\$100.00
December 2011	\$400.00
January 2012	\$600.00
February 2012	\$800.00
March 2012	\$1,200.00
Total	\$3,100.00

The landlord has applied for an order of possession effective two days after service on the tenant and for a monetary order for the outstanding rent in the amount of \$3,100.00 plus the filing fee of \$50.00.

Analysis

Based on the undisputed sworn testimony of the landlord, I accept her evidence in respect of the claim. Pursuant to section 46 (4) of the *Residential Tenancy Act* within five days after receiving the notice to end tenancy, the tenant may pay the overdue rent or dispute the notice by making application for dispute resolution.

If the tenant does not pay rent or dispute the notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit, by that date.

The tenant received the notice to end tenancy on February 02, 2012 and did not pay overdue rent within five days of receiving the notice. The tenant applied to dispute the notice but did not attend the hearing. Therefore, the notice is upheld and pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. This Order may be filed in the Supreme Court for enforcement.

In the absence of evidence to the contrary, I find that the landlord has established a claim of \$3,100.00 for unpaid rent and \$50.00 for the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$3,150.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. I also grant the landlord a monetary order in the amount of **\$3,150.00**. The tenant's application is dismissed in its entirety.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 07, 2012.

Residential Tenancy Branch