



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, CNR, MNR, 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 the filing fee.

Despite making application for dispute resolution, the tenant did not attend the hearing. The landlord 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 landlord and tenant entered into a tenancy agreement on September 15, 2010. The monthly rent is \$1,400.00 payable on the first of the month and does not include utilities. The rental unit is a detached home and the tenant was required to put the utilities in his name. He failed to do so despite reminders. The landlord continued to pay the utilities until the tenant complied. For the period of October 2010 to July 2011, the landlord paid a total of \$2,940.28 on the tenant's behalf. The landlord filed copies of utility invoices to support his claim. The tenant made two payments towards utilities and at the time of the hearing owed \$1,640.28.

The tenant had financial difficulties and fell behind on rent. The landlord stated that the tenant made several promises that he could not keep and finally on May 16, 2012, the landlord served the tenant with a ten day notice to end tenancy for unpaid rent.

The tenant disputed the notice in a timely manner, but did not attend the hearing to present his case. The landlord stated that the tenant owed rent for February 2012 to June 2012 in the amount of \$7,000.00 but had made only one payment of \$2,000.00 at the end of March. Accordingly at the time of the hearing the tenant owed the landlord \$5,000.00 in outstanding rent.

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 (\$5,000.00), utilities (\$1,640.28) and the filing fee (\$100.00) for a total of \$6,740.28.

Analysis

Based on the undisputed sworn testimony of the landlord, I accept his 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 May 16, 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 \$5,000.00 for unpaid rent, \$1,640.28 for utilities and \$100.00 for the filing fee. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$6,740.28. 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 **\$6,740.28**. 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: June 13, 2012.

Residential Tenancy Branch