

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent and the recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend. The Landlord states that the Tenant was personally served with the notice of hearing and evidence package on June 8, 2012 at the rental unit. The Tenant has not submitted any documentary evidence. I accept the undisputed testimony of the Landlord and find that the Tenant was properly served with the notice of hearing and evidence package as deemed under the Act.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Background, Evidence and Analysis

The Landlord states that he Tenant was served with a 10 day notice to end tenancy for unpaid rent on May 2, 2012 in person at the rental unit. The notice shows that the Tenant failed to pay rent of \$3,150.00 that was due on May 1, 2012. The Landlord stated that this consists of \$1,050.00 in monthly rent arrears for March, April and May of 2012 for a total of \$3,150.00. The Landlord states the Tenant still resides in the rental unit, but did make two cash payments of \$200.00 on June 8, 2012 and again on June 15, 2012 for \$2,000.00. The Landlord states that he accepted the cash payments, but did not issue any receipts. The Landlord indicated in his direct testimony that he has accepted that the Tenant may resume the Tenancy and only wishes a monetary order for the rent arrears. As the Landlord has accepted rent payment without notice to end the tenancy to the Tenant for use and occupancy only, he has accepted that he Tenancy is reinstated. The Landlord's application for an order of possession is dismissed.

As for the monetary order, I accept the undisputed testimony of the Landlord and find that the Landlord has established a claim for unpaid rent of \$950.00. This is based upon the rent arrears of \$3,150.00 (\$1,050.00 X 3 months for March, April and May) minus the \$2,200.00 paid by the Tenant. The Landlord is also entitled to the recovery of the \$50.00 filing fee. The Landlord is granted a monetary order for \$1,000.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord's application for an order of possession is dismissed.
The Landlord is granted a monetary order for \$1,000.00.

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 26, 2012.

Residential Tenancy Branch