



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her monetary claim.

The notice of hearing was served on the tenant on July 09, 2012 by registered mail. The landlord filed a tracking slip. Despite having been served the notice of hearing, 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 to recover unpaid rent, the filing fee and to retain the security deposit?

Background and Evidence

The tenancy started on June 01, 2011 for a fixed term of one year. The monthly rent was \$825.00 due in advance on the first of each month. The tenant was required to pay an addition \$25.00 per month for parking. At the end of the fixed term, the tenancy continued on a month to month basis with a rent increase of \$35.47. Therefore, as of June 2012, the tenant was required to pay a total of \$885.47 for rent and parking. Prior to moving in the tenant paid a security deposit of \$412.50 and a pet deposit of 412.50.

A term in the tenancy agreement states that the tenant must pay an additional \$25.00 for cheques that were returned for insufficient funds. The rental unit is an apartment occupied by two adults who share the rent. Each tenant gave the landlord post dated rent cheques for their share of the rent. In the months of June and July a total of four cheques were returned for insufficient funds.

The landlord testified that on June 04, 2012, the landlord served the tenant with a ten day notice to end tenancy. The tenant did not dispute the notice and continued to occupy the rental unit without paying rent. At the time of the hearing the tenant owed the landlord \$885.47 for June, \$885.47 for July and \$100.00 for four returned cheques.

The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$1,870.94 which consists of unpaid rent and NSF charges. The landlord is also applying for \$50.00 for the filing fee.

Analysis

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on June 04, 2012 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant make application, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord is entitled to \$1,870.94.00 for unpaid rent and NSF fees. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$50.00.

I order that the landlord retain the security and pet deposits of \$825.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$1,095.94. 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 and a monetary order in the amount of **\$1,095.94.**

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: July 18, 2012.

Residential Tenancy Branch