



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. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Approximately, ten minutes into the hearing, the tenant exited the hearing. I waited four minutes before continuing on. The tenant did not rejoin the hearing.

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 tenant moved into this townhouse complex in June 2011. In December 2011, the tenant's wife moved out leaving their child in the home. On June 01, 2012 the landlord entered into a tenancy agreement with the tenant and his child. Shortly after, the child was taken into care by Social Services.

The accommodation is subsidised housing and is allotted and rented based on a tenant's income and family size. The tenant's portion of the rent is \$461.00 due on the first of each month. Prior to moving in the tenant paid a security deposit of \$300.00.

The landlord stated that the tenant failed to pay rent for August 2012. On August 02, 2012, the landlord served the tenant with a ten day notice to end tenancy. On August 27, Social services made a payment of \$375.00 towards the tenant's rent. As of the date of the hearing the tenant owed \$111.00 which included a late fee of \$25.00.

The tenant testified that he filled out an application to dispute the notice to end tenancy but did not follow up on it.

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 \$111.00 for unpaid rent plus \$50.00 for the filing fee.

Analysis

Based on the sworn testimony of the both parties, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on August 02, 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 also find that the landlord is entitled to \$111.00 for unpaid rent and late fees. Since the landlord has proven his case, he is also entitled to the filing fee of \$50.00. I order that the landlord retain these amounts from the security deposit.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. The landlord may retain \$161.00 from the security deposit.

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: August 30, 2012.

Residential Tenancy Branch