



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MND, 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, cost of repairs and the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

During the hearing, the landlord stated that the tenant did not allow him access to the rental unit and therefore he was unable to file evidence to support his claim for damages. Since the tenancy has not yet ended, this portion of his application is dismissed with leave to reapply.

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 and the filing fee?

Background and Evidence

The tenancy started on January 27, 2011. The monthly rent is \$800.00 payable on the first of each month.

The tenant owed \$500.00 for the month of November and failed to pay rent for December 2012. On December 01, 2012 the landlord served the tenant with a notice to end tenancy for \$1,300.00 in unpaid rent. Both parties agreed that at the time of the hearing the tenant owed \$1,700.00 in unpaid rent.

The landlord is applying for an order of possession effective two days after service on the tenant and for a monetary order in the amount of \$1,700.00 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 December 01, 2012 and did not pay full 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 \$1,700.00 for unpaid rent. Since the landlord has proven his case, he is also entitled to the recovery of the filing fee in the amount of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the total of 1,750.00. 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 and a monetary order for **\$1,750.00**.

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: January 22, 2013

Residential Tenancy Branch

