



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 satisfaction of her claim.

During the hearing, the landlord requested me to dismiss the portion of her application that deals with the security deposit and allow her to make application for her claims if any, against the security deposit after the tenancy ends. Since the tenancy has not yet ended I allowed the landlord's request and have dismissed this portion of her application with leave to reapply. Therefore, this hearing only dealt with the landlord's application for an order of possession and a monetary order for unpaid rent and the filing fee.

Both parties attended the hearing and were 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, and the filing fee?

Background and Evidence

The tenancy started in October 2010. The monthly rent is \$1,250.00 due in advance on the first of each month. The landlord stated that the tenant failed to pay rent on December 01, 2012 and on December 15, 2012; the landlord served the tenant with a ten day notice to end tenancy. The tenant stated that he received the notice to end tenancy and agreed that he owed \$875.00 for December plus \$1,275.00 for January.

The landlord is applying for an order of possession effective two days after service on the tenant and for a monetary order in the total amount of \$2,200.00 which consists of \$2,150.00 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 15, 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 a total of \$2,150.00 for unpaid rent for December 2012 and January 2013. Since the landlord has proven her case she is also entitled to the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of 2,200.00. 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 **\$2,200.00**.

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 25, 2013

Residential Tenancy Branch

