



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, 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 damages.

Notes on the file indicate that it was suggested to the landlord at the Residential Tenancy Branch Office that he apply for an order of possession to put an early end to tenancy. Accordingly, the landlord amended his application. However, the landlord had served the tenant with a notice to end tenancy for non payment of rent. Therefore I am going to proceed as per the initial application of the landlord. At the hearing, the landlord also requested a monetary order for unpaid rent.

Accordingly, this hearing 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 on February 01, 2012. The tenancy agreement was for a fixed term ending December 31, 2012. The monthly rent is \$550.00 due on the first of each month. The respondent is not named on the tenancy agreement as she moved in a few months into the tenancy. The tenant named on the tenancy agreement moved out on December 31, 2012. The rental unit is located in the basement of the landlord's home. The landlord lives upstairs.

The landlord stated that the tenant paid rent late repeatedly and as of December 31, 2012 owed \$600.00. However, the notice to end tenancy that was served to the tenant on January 12, 2013 indicated that the tenant owed \$550.00. The tenant stated that she paid rent for January but did not file any documentation to support her testimony. The tenant agreed that she had not paid rent for February. She stated that she offered it to the landlord and he refused to take it.

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 \$1,100.00 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 January 12, 2013 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 \$1,100.00 for unpaid rent. Since the landlord has proven his case, he is also entitled to the recovery of the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the total of 1,150.00. 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 **\$1,150.00**.

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: February 13, 2013

Residential Tenancy Branch

