



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNSD, MNDC, 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, bank charges for returned cheques 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 February 27, 2013 by registered mail. The landlord filed a copy of the 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, bank fees, the filing fee and to retain the security deposit?

Background and Evidence

The tenancy started on December 01, 2012 for a fixed term of one year. The monthly rent is \$1,900.00 due in advance on the first of each month. Prior to moving in the tenant paid a security deposit of \$950.00. The landlord filed a copy of the tenancy agreement. A clause in the agreement requires the tenant to pay \$25.00 for cheques that are returned for insufficient funds.

The landlord testified that the tenant's rent cheques for January and February 2013 were returned for insufficient funds. On February 14, 2013; 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. The tenant's rent cheque for March 2013 was also returned for insufficient funds. At the time of the hearing the tenant owed the landlord rent for January, February and March 2013.

The landlord testified that she conducted an inspection on March 11 and found that except for one bed, the unit was empty. She attempted to contact the tenant without success. The landlord has applied for an order of possession and a monetary order for three months rent (\$5,700.00), bank charges for NSF cheques (\$75.00) plus the filing fee (\$100.00) for a total of \$5,875.00.

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 February 14, 2013 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 an 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 her claim for unpaid rent, NSF charges and to the filing fee. I order that the landlord retain the security of \$950.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance of \$4,925.00. 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 in the amount of **\$4,925.00**.

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: March 22, 2013

Residential Tenancy Branch