



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *OPR, CNR, MNR, OLC, RR, PSF, FF*

Introduction.

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The tenant applied for an order to cancel the notice to end tenancy and for an order directing the landlord to comply with the *Act*, carry out repairs, provide services and reduce rent. The tenant also applied for the recovery of 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 or should the notice to end tenancy be set aside? Is the landlord entitled to a monetary order for unpaid rent? Is the tenant entitled to an order directing the landlord to comply with the *Act*, carry out repairs, provide services and reduce rent?

Background and Evidence

The landlord and tenant entered into a tenancy agreement on October 01, 2012 for a fixed term of two years. Both parties agreed that the monthly rent of \$2,200.00 is due on the first day of each month and does not include utilities. The landlord stated that the tenant paid rent late repeatedly and also did not pay the utilities, despite several reminders.

On February 18, 2013, the landlord had served the tenant with a ten day notice to end tenancy for unpaid rent. The tenant disputed the notice in a timely manner but did not pay the outstanding rent. The tenant agreed that at the time of the hearing he owed the landlord \$5,100.00 in unpaid rent. The landlord has applied for an order of possession effective two days after service on the tenant and for a monetary order for unpaid rent.

Analysis

The tenant received the notice to end tenancy for unpaid rent, on or about February 18, 2013 and did not pay rent within five days of receiving the notice to end tenancy, 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.

Based on the sworn testimony of both parties, I accept the landlord's evidence in respect of the claim. As agreed to by the tenant, I find that the tenant owes a total of **\$5,100.00** in unpaid rent. Since the landlord has proven his case, he is also entitled to the recovery of the filing fee of **\$50.00**. Accordingly, I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of **\$5,150.00**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Since the notice to end tenancy is upheld and the tenancy is ending, the tenant's application for an order directing the landlord to carry out repairs, comply with the *Act*, provide services and reduce rent is moot and accordingly dismissed. The tenant has not proven his case and must also bear the cost of filing his application.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. I also grant the landlord a monetary order in the amount of **\$5,150.00**. The tenant's application is dismissed in its entirety.

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 26, 2013

Residential Tenancy Branch

