



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR OPR MNSD FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

Both parties attended and the tenant confirmed that she had received the Notice to end Tenancy on March 28, 2013 and the Application for Dispute Resolution personally on April 10, 2013. I find the documents were legally served for the purposes of this hearing.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated March 12, 2013 for unpaid rent. Is the landlord now entitled to an Order of Possession and a Monetary Order for rental arrears and filing fee?

Background and Evidence:

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced in October 2010, rent is \$1425 per month and a security deposit of \$712.50 was paid on September 14, 2010. A copy of the agreement was provided in evidence. It is undisputed that the tenant has not paid rent for April and May 2013 and that she owes \$25 late fee for March also.

The tenant said she plans to move out by May 14, 2013 and the landlord said that if she did and finished cleaning up so the house sale could complete earlier, she would consider refunding some rent to the tenant.

On the basis of the solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. The Tenant has not made 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. An Order of Possession is issued effective two days from service.

Monetary Order

I find that there are rental arrears in the amount of \$2850 plus \$25 late fee representing rental arrears for April and May 2013.

Conclusion:

I find the landlord is entitled to an Order of Possession effective two days after service and a monetary order as calculated below. I find the landlord is entitled to retain the security deposit with interest to offset the rental amount owing. I find that the landlord is entitled to recover filing fees paid for this application.

Calculation of Monetary Award

Rent for April and May 2013	2850.00
Late fee for March	25.00
Filing fee	50.00
Less security deposit (no interest 2010-2013)	-712.50
Total monetary order to landlord	2212.50

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: May 10, 2013

Residential Tenancy Branch