



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BRISTOL ESTATES
and [tenant name suppressed to protect privacy]

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, late fees and the filing fee. The landlord also applied to retain the security and pet deposits. 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 for unpaid rent, late fees, the filing fee and to retain the security deposit?

Background and Evidence

The tenancy started on November 01, 2009. The rent is \$885.00 payable on the first of each month. A clause in the tenancy agreement requires the tenant to pay a late fee of \$25.00 for rent paid after the first of the month. Prior to moving in the tenant paid a security deposit and pet deposit for a total of \$850.00.

The landlord stated that the tenant failed to pay rent for May 2013. On May 02, 2013, the landlord served the tenant with a ten day notice to end tenancy. The tenant did not pay all rent owed and continued to occupy the rental unit. During the hearing, the tenant agreed that he owed rent in the amount of \$710.00 and late fees in the amount of \$50.00.

The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$710.00 for unpaid rent, \$50.00 for late fee 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 May 02, 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 \$710.00 for unpaid rent and \$50.00 for late fees. Since the landlord has proven her case, she is also entitled to the filing fee of \$50.00 for a total of \$810.00.

I order that the landlord retain this amount from the security and pet deposits which total \$850.00 and is in excess of the landlord's established claim.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. The landlord may retain \$810.00 from the pet and security deposits.

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: June 07, 2013

Residential Tenancy Branch