



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNR, MNSD, OPR

Introduction

This is an application for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, a request for a Monetary Order for \$950.00, a request to retain the security deposit towards the claim, and a request for recovery of the \$50.00 filing fee.

Some documentary evidence and written arguments have been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The applicant testified that the respondent was served with notice of the hearing by registered mail on May 18, 2013; however the respondent did not join the conference call that was set up for the hearing.

Section 90 of the residential tenancy act states:

A document given or served in accordance with section 88 *[how to give or serve documents generally]* or 89 *[special rules for certain documents]* is deemed to be received as follows:

- (a) if given or served by mail, on the 5th day after it is mailed;
- (b) if given or served by fax, on the 3rd day after it is faxed;

(c) if given or served by attaching a copy of the document to a door or other place, on the 3rd day after it is attached;

(d) if given or served by leaving a copy of the document in a mail box or mail slot, on the 3rd day after it is left.

Therefore it is my finding that the respondent is deemed served by May 23, 2013.

All testimony was taken under affirmation.

Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession?
- Is the landlord entitled to a Monetary Order?
- Is the landlord entitled to recovery of the filing fee?

Background and Evidence

The landlord testified that:

- This tenancy began on October 15, 2012 with a monthly rent of \$600.00, and a security deposit of \$300.00 was paid on that date.
- The tenant failed to pay the May 2013 rent and therefore on May 2, 2013 the tenant was personally served with a 10 day Notice to End Tenancy.
- The tenant failed to comply with that notice, and although a portion of the outstanding rent has been paid, it was collected for use and occupancy only.
- At this time there is still a total of \$167.50 in rent outstanding.
- He is therefore requesting an Order of Possession for as soon as possible, and a Monetary Order for the outstanding rent.

Analysis

It is my finding that the landlord has shown that the tenant has failed to comply with a valid Notice to End Tenancy, and therefore I allow the request for an Order of Possession.

It is also my finding that the landlord has shown that at this time there is still a total of \$167.50 rent outstanding to the end of June 2013 and I therefore allow the landlords reduced monetary claim.

I'll so allow the request for recovery of the filing fee.

Conclusion

I have issued an Order of Possession that is enforceable two days after service on the respondent.

I have allowed a monetary claim of \$217.50, and I therefore order that the landlord may retain \$217.50 of the \$300.00 security deposit to satisfy that claim.

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 13, 2013

Residential Tenancy Branch

