



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 pursuant to the notice to end tenancy for non payment of rent. The landlord also applied for a monetary order for unpaid rent and the filing fee, and to retain the security deposit in partial satisfaction of the claim.

The notice of hearing was served on the tenant, on August 23, 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.

AT the start of the hearing the landlord informed me that the tenant had paid all the outstanding rent on September 03 and 04 and at the time of the hearing the tenant did not owe the landlord rent. The landlord issued receipts for use and occupancy only. The landlord also stated that he would deal with the return of the security deposit at the end of tenancy. Accordingly, this hearing only dealt with the landlord's application for an order of possession and for the recovery of the filing fee.

Issues to be decided

Is the landlord entitled to an order of possession and a monetary order for the recovery of the filing fee?

Background and Evidence

The tenancy started on July 01, 2009. The monthly rent is \$760.00 due in advance on the first of each month. Prior to moving in the tenant paid a security deposit of \$375.00.

The landlord stated that the tenant failed to pay rent on August 01, 2013 and on August 02, 2013; the landlord served the tenant with a notice to end tenancy for unpaid rent.

The tenant did not dispute the notice and paid rent for August and September on September 03 and 04 respectively. The landlord has applied for an order of possession effective two days after service on the tenant and for a monetary order in the amount of \$50.00 for the filing fee.

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 August 02, 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 a formal order of possession effective two days after service on the tenant. The order may be filed in the Supreme Court for enforcement.

Since the landlord has proven his case, he is entitled to the recovery of the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. 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 **\$50.00**.

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: October 01, 2013