



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNSD, MND, MNDC, 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, and the filing fee. The landlord also applied to retain the security deposit. 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 to recover unpaid rent, the filing fee and to retain the security deposit?

Background and Evidence

The tenancy started in October 2010. The monthly rent is \$1,200.00 due in advance on the first of each month and includes utilities. Prior to moving in the tenant paid a security deposit of \$600.00. Neither party filed a copy of the tenancy agreement.

The landlord stated that the tenant has not paid rent from the start of the tenancy. The landlord lives out of Province and her son manages the rental property. The tenant stated she deposited her rent directly into the landlord's son's bank account, but did not have any document to support her testimony. The landlord stated that no money was ever deposited into the account.

The tenant also stated that the landlord's son did not pay utilities as agreed to in the tenancy agreement and therefore she put the utilities in her name and paid them through the tenancy. The tenant did not provide any proof of payment. The tenant agreed that she had not paid any rent since August 2013. On July 26, 2013, the landlord served the tenant with a ten day notice to end tenancy. Again, neither party filed a copy of the notice but the tenant agreed that she had received the notice. The tenant did not pay outstanding rent and continues to occupy the rental unit. At the time of the hearing, the tenant owed rent in the amount of \$19,200.00.

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 \$19,200.00 for unpaid rent plus \$100.00 for the filing fee.

Analysis

Based on the sworn testimony of 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 July 26, 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.

I also find that the landlord is entitled to \$19,200.00 for unpaid rent. Since the landlord has proven her case, she is also entitled to the filing fee of \$100.00. I order that the landlord retain the security deposit of \$600.00 and accrued interest of \$0.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$18,700.00. 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 for **\$18,700.00**.

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: November 13, 2013

Residential Tenancy Branch

