



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LU'MA NATIVE BCH HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

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 and for a monetary order for unpaid rent and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her claim.

The landlord served the notice of hearing on the tenant on February 14, 2014, in person. 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.

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 and the filing fee and to retain the security deposit?

Background and Evidence

The tenancy started in November 2012. The monthly rent is \$1,199.00 due in advance on the first of each month. The tenant paid a security deposit of \$594.00.

The landlord testified that the tenant fell behind on rent and on January 10, 2014, the landlord served the tenant with a notice to end tenancy for unpaid rent in the amount of \$6,005.00. Since then the tenant has made a partial payment of \$1,900.00 towards rent and the landlord issued a receipt for use and occupancy only.

The tenant did not dispute the notice and also did not pay the outstanding rent. The landlord stated that the tenant continues to occupy the rental unit and as of the date of the hearing the tenant owes the landlord \$5,702.00 in unpaid rent.

The landlord is applying for a monetary order for this amount plus \$100.00 for the recovery of the filing fee. The landlord has also applied for an order of possession effective two days after service on the tenant.

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 on January 10, 2014 and did not pay outstanding rent 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 find that the landlord is entitled to \$5,702.00 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 deposit of \$594.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance of \$5,208.00. 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 in the amount of **\$5,208.00**.

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: April 02, 2014

Residential Tenancy Branch

