



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, 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. 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 and the filing fee?

Background and Evidence

The tenancy started on October 14, 2014. The monthly rent is \$800.00 due in advance on the first of each month. On June 02, 2014 the landlord served the tenant with a ten day notice to end tenancy. The amount of rent owed as per the landlord's application is \$3,600.00. The landlord filed copies of ten day notices dated April 12 and May 01, 2014.

The landlord stated that since she made application, the tenant paid \$1,300.00 towards unpaid rent and now owes \$2,300.00. The tenant stated that he did not owe any rent because he had done some renovations for the landlord and that his roommate had paid the balance owed to the landlord.

The landlord denied having received rent from the roommate and stated that the roommate was not named on the tenancy agreement and that the tenant did not ask the landlord for permission to sub let. The tenant stated that his roommate was away and that is why she did not attend the hearing to testify about rent that was directly deposited into the landlord's bank account.

The tenant did not file evidence to support any agreement for the cost of work done for the landlord and the landlord denied having made any such agreement.

The landlord is applying for an order of possession effective two days after service on the tenant and for a monetary order in the amount of \$2,300.00 for unpaid rent plus \$50.00 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 June 02, 2014 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 \$2,300.00 for unpaid rent. Since the landlord has proven her case she is also entitled to the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for 2,350.00. 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 **\$2,350.00**.

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: August 19, 2014

Residential Tenancy Branch

