



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BRISTOL ESTATES
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, late fees 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.

During the hearing, the landlord requested me to dismiss the portion of her application that deals with the security deposit and allow her to make application for her claims if any, against the security deposit after the tenancy ends. Since the tenancy has not yet ended I allowed the landlord's request and have dismissed this portion of her application with leave to reapply. Therefore, this hearing only dealt with the landlord's application for an order of possession and a monetary order for unpaid rent, late fees and the filing fee.

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 July 01, 2014. The monthly rent is \$950.00 due in advance on the first of each month. On August 02, 2014, the landlord served the tenant with a ten day notice to end tenancy. Both parties agreed that as of the date of this hearing, the tenant owed rent and late fees in the amount of \$1,085.00.

The landlord is applying for an order of possession effective on or before October 24, 2014 and for a monetary order in the amount of \$1,135.00 which includes, rent late fees and the filing fee.

Analysis

Based on the sworn testimony of the 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 August 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 on or before 1:00 pm on October 24, 2014. The Order may be filed in the Supreme Court for enforcement.

I also find that the landlord is entitled to \$1,085.00 for unpaid rent and late fees. Since the landlord has proven her case, I award the landlord the recovery of the filing fee. Overall the landlord has established a claim for \$1,135.00 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.

During the hearing, the landlord agreed to refrain from serving the order of possession on the tenant and also agreed to allow the tenancy to continue, if the tenant paid all amounts owed to the landlord on or before October 24, 2014.

Conclusion

I grant the landlord an order of possession effective on or before 1:00 pm on October 24, 2014 and a monetary order for **\$1,135.00**.

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 09, 2014

Residential Tenancy Branch

