



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR OPR MNSD FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55; and
- d) An order to recover the filing fee pursuant to Section 72.

SERVICE:

Only the landlord attended and gave sworn evidence that he served the Notice to end Tenancy dated August 13, 2014 and the Application for Dispute Resolution personally on the tenant with a witness (his brother). I find that the tenant was legally served with the documents according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated August 13, 2014 for unpaid rent. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

Background and Evidence:

Only the landlord attended and was given opportunity to be heard, to present evidence and to make submissions. He said the tenancy was a verbal agreement and it started June 1, 2014, rent was \$950 a month and a security deposit of \$200 was paid by the Ministry. He said that he and his brother were told by the tenant that his wife had died and he was expecting money but he never paid rent, except for the one \$200 security deposit cheque from the Ministry and he is still living there. The landlord is claiming the rental arrears of \$3600 which is rent owing from June to September 2014 less the security deposit of \$200. The landlord sent a written document late with details which also attempted to support a claim for more rental arrears..

On the basis of the solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. The Tenant has not made 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. An Order of Possession is issued effective two days from service.

Monetary Order

I find that there are rental arrears in the amount of \$3800 representing rental arrears from June to September 2014 (4x\$950); I find the landlord entitled to retain the security deposit of \$200 to offset the amount owing. Although the landlord sent a written document after the hearing to claim additional arrears, I find he is limited to the amount that he claimed on his application since, on the Principles of Natural Justice, a person must have notice of a claim and have the opportunity to respond to it. The amount claimed as owing to the landlord on the original application (of which the tenant had notice) is \$3600 so I find the landlord entitled to this amount.

Conclusion:

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order for \$3650 (rental arrears plus \$50 filing fee). I give the landlord leave to reapply for further rental losses and/or damages within the applicable time limitations in the legislation.

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 04, 2014

Residential Tenancy Branch

