



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession pursuant to the notice to end tenancy for non payment of rent. The landlord also applied for a monetary order for unpaid rent and the filing fee, and to retain the security deposit in partial satisfaction of the claim.

The notice of hearing was served on the tenant in on October 27, 2014, by registered mail. The landlord filed a copy of the tracking slip. 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. During the hearing the landlord requested that her application to retain the deposit be dismissed with leave to reapply at the end of the tenancy. Since the tenant has not moved out, I dismiss this portion of the landlord's application with leave to reapply.

Issues to be decided

Is the landlord entitled to an order of possession and a monetary order for unpaid rent?

Background and Evidence

The tenancy started on April 15, 2012. The current monthly rent is \$927.18 due on the first of each month. The landlord stated that the tenant failed to pay rent on October 01, 2014 and on October 06, 2014; the landlord served the tenant with a notice to end tenancy for unpaid rent in the amount of \$927.18. The tenant did not dispute the notice and did not pay outstanding rent. At the time of the hearing, the landlord stated that the tenant owed rent for November as well for a total of \$1,855.36.

The landlord testified that rent is paid by direct withdrawal from the tenant's bank account and as of the day of the hearing, rent for December 2014 had already been paid and it was too early to say whether the rent paid would be clawed back for lack of funds in the account as had happened for the prior two months.

I explained to the landlord that she was at liberty to file an application for unpaid rent, in the event that the rent was clawed back by the bank. The landlord has applied for an order of possession effective two days after service on the tenant and for a monetary order for unpaid rent (\$1,855.36) plus the filing fee (\$50.00).

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 for unpaid rent on October 06, 2014 and did not pay full 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 further find that the landlord is entitled to rent in the amount of \$1,855.36. Since the landlord has proven her case, she is entitled to the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for \$1,905.36. 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 **\$1,905.36**.

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: December 02, 2014

Residential Tenancy Branch

