



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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, NSF fees and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the monetary claim.

The notice of hearing was served on the tenant on December 13, 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.

Issues to be decided

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

Background and Evidence

The tenancy started on January 01, 2011. The current monthly rent is \$1,115.00 due on the first of each month. Prior to moving in, the tenant paid a security deposit of \$495.00. A term in the tenancy agreement requires the tenant to pay late fees and NSF fees of \$25.00 each.

The landlord testified that the tenant was late paying rent several times during the tenancy. On November 01, 2014 the tenant failed to pay rent and on November 14, 2014; the landlord served the tenant with a ten day notice to end tenancy. The tenant did not dispute the notice and made a partial payment of \$300 on December 03, 2014. The landlord issued a receipt for use and occupancy only. The tenant did not pay rent for full rent for December 2014 and also did not pay any rent for January 2015.

At the time of the hearing the tenant owed the landlord \$790.00, \$590.00 and \$1,115.00 in unpaid rent for November, December 2014, and January 2015 respectively, for a total of \$2,495.00. In addition the tenant owes late fees and NSF charges for three months in the total amount of \$150.00.

The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$2,495.00 for unpaid rent, \$150.00 for late and NSF fees plus \$50.00 for the filing fee. The landlord is also applying to retain the security deposit of \$495.00 in partial satisfaction of the claim.

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 November 14, 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 find that the landlord is entitled to her monetary claim of \$2,695 for unpaid rent, late fees, NSF fees and the filing fee. I order that the landlord retain the security of \$495.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$2,200.00. 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 **\$2,200.00**.

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: January 14, 2015

Residential Tenancy Branch

