



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CYPRESS GLEN APARTMENTS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, 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. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The tenant acknowledged receipt of evidence submitted by the landlord. Both parties and gave affirmed testimony.

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, late fees and the filing fee?

Background and Evidence

The tenancy started on November 15, 2014. The monthly rent is \$720.00 due in advance on the first of each month. The landlord filed a copy of the tenancy agreement. A clause in the agreement requires the tenant to pay a late fee of \$25.00 for rent paid after the first of the month.

The tenant was late on rent every month since the start of tenancy and stated the reason for the delay is that Social Services had the wrong address for the landlord. The tenant was served with ten day notices to end tenancy on December 02, 2014, January 02, 2015, February 02, 2015 and March 04, 2015.

The landlord also filed copies of letters to the tenant reminding her that her rent cheque was not received along with the other rent cheques from Social Services. Despite multiple reminders, the rent continued to be paid late and as of the date of this hearing – March 05, 2015, the landlord had not yet received rent for March 2015.

The last notice to end tenancy was served on the tenant on February 02, 2015 by posting the notice on the door and is deemed to have received on February 05, 2015. The tenant paid partial rent on February 06, 2015 and full rent was paid on February 13,

2015. Both parties agreed that as of the date of this hearing, the tenant owed \$745.00 for rent and the late fee.

The landlord is applying for an order of possession effective on March 31, 2015 and for a monetary order for unpaid 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 February 05, 2015 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 March 31, 2015. The Order may be filed in the Supreme Court for enforcement.

I also find that the landlord is entitled to her claim of \$745.00 for unpaid rent and late fees. 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 the amount of 795.00. 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 on or before **1:00 pm on March 31, 2015** and a monetary order for **\$795.00**.

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: March 05, 2015

Residential Tenancy Branch