



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;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

SERVICE:

Only the landlord attended and gave sworn evidence that she served the Notice to end Tenancy dated February 11, 2015 personally and the Application for Dispute Resolution by posting it on the door. She said that the tenant seldom comes to the door but she knew the tenant had received the Application/Notice of Hearing because of some comments she made to her. I find that the tenant was legally served with the Notice to End Tenancy and the Application/Notice of Hearing pursuant to section 89(2) of the Act for the purpose of obtaining an Order of Possession but, the landlord must serve an Application/Notice of Hearing to obtain a Monetary Order according to section 89(1) of the Act and posting is not a valid means of service for this.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated February 11, 2015 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. The evidence is that a security deposit of \$490 was paid and rent is currently \$1080 a month. The landlord stated that the tenant owes \$480 balance

of rent for February and \$1080 rent for each of March and April. There is no record that the tenant disputed the Notice to End Tenancy.

On the basis of the documentary and 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

Although the evidence is that there are rental arrears in the amount of \$2640 representing rental arrears from February to April 2015, I find there was not legal service of the Application/Notice of Hearing pursuant to section 89(1) of the Act so the Application for a Monetary Order is dismissed with leave to reapply.

Conclusion:

I find the landlord is entitled to an Order of Possession effective two days from service. I find the landlord is to recover filing fees paid for this application. **I HEREBY ORDER that the landlord may deduct \$50 from the security deposit to recover the filing fee, leaving a balance of \$440 as security deposit.**

I give the landlord leave to reapply within the legislated time limits to obtain a Monetary Order for rent and other monies that may be owed to her.

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: April 01, 2015

Residential Tenancy Branch

