



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 pursuant to the notice to end tenancy for nonpayment of rent. The landlord also applied for a monetary order for unpaid rent, late fees 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 person on May 13, 2015 in the presence of a witness. 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 rent, late fees and the recovery of the filing fee?

Background and Evidence

The tenancy started on July 01, 2009. The current monthly rent is \$690.00 due in advance on the first of each month. The landlord stated that the tenant fell behind on rent for a few months and on May 02, 2015; the landlord served the tenant with a notice to end tenancy for unpaid rent in the amount of \$955.00. The tenant did not dispute the notice and made payments towards the outstanding rent by installment. The landlord issued receipts for use and occupancy only.

At the time of the hearing, the landlord stated that the tenant owed \$265.00 in unpaid rent plus \$50.00 in late fees.

The landlord has applied for an order of possession effective two days after service on the tenant and for a monetary order for \$365.00 which consists of unpaid rent (\$265.00), late fees (\$50.00) and 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 May 02, 2015 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 unpaid rent and late fees. Since the landlord has proven her case, she is entitled to the recovery of the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for \$365.00. 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 **\$365.00**.

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: June 25, 2015

Residential Tenancy Branch

