



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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. During the hearing the landlord requested the recovery of the filing fee.

On April 25, 2016, the landlord had made application for dispute resolution by direct request. The Arbitrator was unable to process the application due to inadequate information on the service of the notice to end tenancy. Since the direct request proceeding is an ex parte proceeding, the Arbitrator ordered a participatory hearing to clarify the identified issues. Accordingly a review hearing was scheduled for this date – June 10, 2016.

The landlord testified that she served the tenant with the notice of this hearing by registered mail on May 19, 2016. The landlord filed copies of the tracking slip. Despite having been notified of this 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 to recover unpaid rent and the filing fee?

Background and Evidence

The landlord testified that the tenancy started on July 01, 2013. The monthly rent is \$1,200.00 due in advance on the first of each month. A copy of the tenancy agreement was filed into evidence. The landlord stated that the tenant failed to pay rent that was due on March 01 and April 01, 2016.

On April 05, 2016, the landlord served the tenant in person with a notice to end tenancy, for rent owed in the amount of \$2,600.00. The landlord stated that the tenant made partial payments on April 14, May 06 and May 20, 2016. At the time of the hearing the tenant owed a total of \$1,400.00 in unpaid rent.

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 April 05, 2016 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 claim of \$1,400.00 for unpaid rent. Since the landlord has proven her claim, she is also entitled to the recovery of the filing fee of \$100.00 for a total entitlement of \$1,500.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. 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 **\$1,500.00**.

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 10, 2016

Residential Tenancy Branch