



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNSD, 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 non-payment of rent. The landlord also applied for a monetary order for unpaid rent 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 on July 28, 2016 by registered mail. The landlord filed a 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.

During the hearing the landlord requested that his 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. The landlord also informed me that the tenant had paid all outstanding rent and therefore his application for unpaid rent was moot.

Issues to be decided

Is the landlord entitled to an order of possession and the recovery of the filing fee?

Background and Evidence

The tenancy started on August 01, 2003. The current monthly rent is \$825.00 due in advance on the first of each month. Prior to moving in the tenant paid a security deposit of \$320.00 and a pet deposit of \$100.00.

The landlord stated that the tenant was repeatedly late paying rent and fell behind on rent for July 2016. On July 09, 2016; the landlord served the tenant with a notice to end tenancy for unpaid rent in the amount of \$720.00.

The tenant did not dispute the notice and made payments towards the outstanding rent by installments starting on July 29, 2016. At the time of the hearing, the landlord stated that the tenant was all caught up on rent payments.

The landlord has applied for an order of possession effective at 1:00pm on September 30, 2016 and for the recovery of the filing fee of \$100.00.

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 July 09, 2016 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 at 1:00pm on September 30, 2016. The order may be filed in the Supreme Court for enforcement.

Since the landlord has proven his case, he is entitled to the recovery of the filing fee of \$100.00. The landlord may retain \$100.00 from the security deposit.

Conclusion

I grant the landlord an order of possession effective at 1:00pm on September 30, 2016. The landlord may retain \$100.00 from the security deposit.

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: September 16, 2016

Residential Tenancy Branch