



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR

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.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The landlord provided proof of having served the tenant with evidence packages by registered mail which were returned to her, as unclaimed. The tenant stated that she did not receive the evidence packages and it was possible that the notification from Canada Post was picked up by other residents of the rental unit and not handed over to the tenant.

Based on the testimony of the tenant, I give the tenant the benefit of the doubt and accordingly the landlord's evidence package was not used in the making of this decision.

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?

Background and Evidence

The parties entered into a tenancy agreement on November 01, 2016. The monthly rent is \$500.00 due in advance on the first of each month. The tenant stated that the rent is \$375.00 but did not file any evidence to support her testimony.

The landlord stated that the tenant paid \$250.00 for November 2016 and promised to pay the balance but never did. The tenant also failed to pay rent for December 2016, January to March 2017. The tenant agreed that rent was not paid for these months but disputed the amount of rent that was unpaid.

The tenant stated that on February 13, 2017, the landlord served the tenant with a ten day notice to end tenancy for a total of \$2,500.00 in unpaid rent. The tenant did not pay rent, did not dispute the notice to end tenancy and continues to occupy the rental unit. The landlord is applying for an order of possession effective two days after service on the tenant and for a monetary order in the amount of \$2,250.00 for unpaid rent (\$250.00 for November 2016 plus \$500.00 for each of the following months up to March 2017.)

Analysis

Based on the sworn testimony of 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 13, 2017 and did not full 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 further find that the landlord is entitled to \$2,250.00 for unpaid rent. 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 for **\$2,250.00**.

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 24, 2017

Residential Tenancy Branch