



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR OPR FF

Introduction:

Only the landlord's representative (hereinafter called 'the landlord') attended the hearing and gave sworn testimony. She stated the 10 Day Notice to end Tenancy dated November 23, 2017 to be effective December 16, 2017 was served by posting it on the tenant's door and the Application for Dispute Resolution by registered mail (tracking number provided). I find the tenant was legally served with the documents according to sections 88 and 89 of the Act. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55; and
- c) To recover the filing fee for this application.

Issue(s) to be Decided:

Is the landlord 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 undisputed evidence is that the tenancy commenced September 1, 2016, a security deposit of \$400 was paid and rent which is geared to income is currently \$351 a month. The landlord provided evidence that the tenant owes rent from September 2017 to January, 2018 (5 months x \$351 = \$1755). The landlord is claiming the rental arrears and over holding rent of \$1755. The tenant did attend or provide documents to dispute the amount owing. The landlord requests an Order of Possession effective as soon as possible.

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 which was December 16, 2017. I find the tenancy is at an end. An Order of Possession is issued effective two days from service.

Monetary Order

I find that there are rental arrears and over holding rent totalling \$1755 from September 2017 to January 2018. The landlord does not want to offset the amount owing with the security deposit but prefers it remain in trust to be handled according to section 38 of the Act after the tenant vacates.

Conclusion:

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order as calculated below. I find the landlord is entitled to recover filing fees paid for this application.

Calculation of Monetary Award:

| | |
|---|----------------|
| Rent arrears and over holding rent | 1755.00 |
| Filing fee | 100.00 |
| Total Monetary Order to Landlord | 1855.00 |

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: January 10, 2018

Residential Tenancy Branch