



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR OPR FF

Introduction:

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:15 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for July 24, 2018 at 9:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord said she served personally to the tenants the 10 Day Notice to End Tenancy dated May 8, 2018 to be effective May 17, 2018 and the Application for Dispute Resolution. A witness filed a statement to verify this. I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Sections 46 and 67 for unpaid rent;
- b) An Order of Possession pursuant to sections 46 and 55; and
- c) An order to recover the filing fee pursuant to Section 72.

Issue(s) to be Decided:

Is the landlord entitled to an Order of Possession and a monetary order for rental arrears and to recover the filing fee for this application?

Background and Evidence:

The landlord provided evidence that the tenancy commenced November 1, 2011 on a fixed term which reverted to a month to month tenancy. She said a security deposit of \$425 was paid and rent is now \$1015 a month which is comprised of \$925 in rent and an arrears payment of \$90 a month. The landlord said they have had numerous hearings with the tenant and the amount of the arrears payment was decided in a previous hearing. Currently the tenant owes \$965 for May and \$1015 for each of June

and July 2018 for a total of \$2995 in outstanding rent. The landlord requests an Order of Possession effective as soon as possible and a monetary order for the arrears and filing fee. 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 the landlord entitled to an Order of Possession. The weight of the evidence is that there is unpaid rent for May, June and July 2018. Section 46(5) of the Act states if a tenant who receives a 10 Day Notice for Unpaid rent does not pay the rent (within 5 days after receipt of the Notice) or make an Application for Dispute Resolution, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the Notice and must vacate the rental unit. I find the tenancy ended on May 17, 2018. The landlord is issued an Order of Possession effective two days from service as she requested.

Monetary Order:

The onus is on the applicant to prove on a balance of probabilities their claim. I find the weight of the evidence is that the tenant owes \$2995 in unpaid rent until July 31, 2018. I find the landlord entitled to a monetary order for this amount plus the filing fee.

Conclusion:

I find the landlord entitled to an Order of Possession effective two days from service and to a monetary order as calculated below. The calculation includes an award of the filing fee. The security deposit of the tenant will remain in trust to be dealt with according to section 38 of the Act after the tenant vacates.

Calculation of Monetary Award:

Rent arrears May 2018	965.00
Over holding rent June and July 2018	2030.00
Filing fee	100.00
Total Monetary Order	3095.00

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: July 24, 2018

Residential Tenancy Branch