



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SKYLINE LIVING
and [tenant name suppressed to protect privacy]

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 and the filing fee.

The notice of hearing was served on the tenant on December 03, 2018 by posting the package on the front door. The landlord stated that the tenant contacted the landlord to acknowledge the receipt of the notice of hearing and expressed interest in setting up a payment plan to catch up on unpaid rent. 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.

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 tenancy started in June 2018 for a fixed term of one year. The monthly rent is \$1,575.00 due in advance on the first of each month. A copy of the tenancy agreement was filed into evidence. A term of the agreement requires the tenant to pay \$20.00 for cheques that are returned for insufficient funds.

The landlord testified that the tenant's rent cheque dated November 01, 2018 was returned for insufficient funds. On November 16, 2018 the landlord served the tenant with a notice to end tenancy for unpaid rent. The tenant did not dispute the notice and continued to occupy the rental unit without paying rent.

The landlord testified that rent cheques for December 2018 and January 2019 were also returned for insufficient funds and as of the date of this hearing the tenant owed rent for three months for a total of \$4,725.00. The landlord also requested the fee for 3 returned cheques in the amount of \$60.00 plus \$100.00 for the recovery of the filing fee.

Analysis

Based on the undisputed sworn testimony of the landlord and in the absence of evidence to the contrary, I accept the landlord's testimony in respect of her claim. The tenant is deemed to have received the notice to end tenancy for unpaid rent, on November 19, 2018 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 is 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 \$4,725.00 for unpaid rent plus \$60.00 for returned cheque fees. Since the landlord has proven her claim, I award the landlord the recovery of the filing fee of \$100.00 for a total claim of \$4,885.00. 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 for **\$4,885.00**.

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 11, 2019

Residential Tenancy Branch