



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPL, MNDC, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession pursuant to a notice to end tenancy for landlord's use of property and for a monetary order for unpaid rent and the recovery of the filing fee.

The landlord testified that the notice of hearing was served on the tenant on May 06, 2019, in person in the presence of a witness. 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 to a monetary order for unpaid rent and the filing fee?

Background and Evidence

The landlord testified that the tenancy started on January 15, 2019. The monthly rent is \$800.00 payable on the first of each month.

The landlord stated that on February 25, 2019, she served the tenant with a notice to end tenancy for landlord's use of property, in person. The landlord filed proof of service of the notice to end tenancy. The effective date of the notice is May 01, 2019. The tenant did not dispute the notice.

The landlord testified that the tenant has not paid rent for the months of April, May and June 2019 and has applied for a monetary order for unpaid rent. The landlord has also applied for an order of possession effective July 01, 2019.

Analysis

Based on the undisputed testimony of the landlord, I find that the tenant received the notice to end tenancy on February 25, 2019 and did not make application, pursuant to Section 49 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 by 1:00 pm on July 01, 2019. The Order may be filed in the Supreme Court for enforcement.

I further find that the landlord is entitled to \$1,600.00 for unpaid rent for the months of April and May 2019. Pursuant to having been served with a s.49 notice to end tenancy, the tenant is entitled to the last month of rent-free stay. The tenancy will end on July 01, 2019 and therefore the tenant is not required to pay rent for June 2019. Since the landlord has proven her claim, I award the landlord the recovery of the filing fee of \$100.00.

Overall the landlord has established a total claim of \$1,700.00. 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 by **1:00m on July 01, 2019** and a monetary order for **\$1,700.00**.

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: June 11, 2019

Residential Tenancy Branch