



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WESTSEA CONSTRUCTION LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNSD, 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 landlord also applied to retain the security deposit.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant represented himself. The corporate landlord was represented by their agents.

As both parties were in attendance I confirmed service of documents. The tenant stated that he received an evidence package on the day before this hearing and did not have time to review the evidence. The landlord stated that the notice of hearing and the evidence package were served by registered mail to the tenant on May 30, 2019. The landlord provided a tracking number. A review of the tracking history indicates that the package was received and signed for on May 31, 2019.

I find that the tenant was served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

Since the tenancy has not ended, I dismiss the portion of the landlord's application to retain the security deposit with leave to reapply.

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 and the filing fee?

Background and Evidence

The tenancy started on December 10, 2018 for a fixed term of six months. The monthly rent is \$1,450.00 due in advance on the first of each month.

The landlord stated that the tenant failed to pay rent on time for May and June 2019 and did not pay any rent for July 2019. The tenant agreed that he paid rent for May 2019 on June 10, 2019 and rent for June 2019 was paid on July 08, 2019 and was short \$200.00. The tenant also agreed that rent for July was not yet paid and that he owed a total of \$1,650.00 in unpaid rent, as of the date of this hearing.

On May 08, 2019 and June 05, 2019, the landlord served the tenant with ten-day notices to end tenancy for unpaid rent in the amount of \$1,450 and \$2,900.00 respectively, by posting the notices on the front door. The tenant initially denied having received the notices but later in the hearing stated that it was possible that his special needs room mate or his son may have removed it from the door. The landlord filed a proof of service document to support her testimony of having served the notices to end tenancy by posting the notices on the front door.

The tenant did not dispute the notice to end tenancy and continues to occupy the rental unit. The tenant agreed that at the time of the hearing he owed the landlord \$1,650.00 in unpaid rent.

The landlord is applying for an order of possession effective August 31, 2019 and for a monetary order in the amount of \$1,650.00 for unpaid rent plus \$100.00 for the filing fee, for a total claim of \$1,750.00.

Analysis

Based on the sworn testimony of both parties, I accept the landlord's evidence in respect of the claim. The tenant is deemed to have received the notice to end tenancy for unpaid rent, on May 11, 2019 and did not 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 by 1:00 pm on August 31, 2019. The Order may be filed in the Supreme Court for enforcement.

I further find that the landlord is entitled to \$1,650.00 for unpaid rent. Since the landlord has proven his case, he is also entitled to the filing fee of \$100.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$1,750.00. 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 effective by **1:00 pm on August 31, 2019** and a monetary order for **\$1,750.00**.

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 09, 2019

Residential Tenancy Branch