



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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 in partial satisfaction of his claim.

The landlord testified that the notice of hearing and evidence package was served on the tenant on June 27, 2019 by registered mail. The landlord provided a tracking number. 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? Is the landlord entitled to retain the security deposit?

Background and Evidence

The tenancy started on January 01, 2019. The monthly rent is \$1,680.00 due in advance on the first of each month. There is no written agreement. The landlord testified that he handed over the keys of the rental unit to the tenant in good faith as the tenant paid a partial security deposit of \$520.00 and promised to pay the balance of the deposit plus rent after he moved in.

The landlord testified that after the tenant moved in, he avoided contact with the landlord and did not pay the remainder of the deposit, rent or utilities. The landlord served the tenant with a notice to end tenancy on April 04, 2019 and the matter went to a hearing. However, since the landlord had not provided the tenant with a 30 day notice to pay utilities, the landlord withdrew his application.

The tenant continued to occupy the rental unit without paying rent. On June 12, 2019, the landlord served the tenant with a second notice to end tenancy for unpaid rent. The tenant did not dispute the notice and continued to occupy the rental unit without paying rent or utilities.

The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$13,440.00 for unpaid rent for the months of January to August 2019, plus \$100.00 for the filing fee. The landlord is also applying to retain the security deposit of \$520.00 in partial satisfaction of the claim.

Analysis

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on June 12, 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 two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord is entitled to his monetary claim of \$13,440.00 for unpaid rent. Since the landlord has proven his case, I grant him the recovery of the filing fee of \$100.00 for a total established claim of \$13,540.00.

I order that the landlord retain the security of \$520.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$13,020.00. 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 two days after service** on the tenant and a monetary order for **\$13,020.00**.

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: August 13, 2019

Residential Tenancy Branch