



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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, unpaid utilities and the filing fee.

The landlord had initially made application by direct request which is processed by a non-participatory hearing. In an interim decision dated October 08, 2019, the adjudicator adjourned the hearing to a participatory hearing. The reason for the adjournment was that the adjudicator found that there had been extensive negotiations between the landlord and the tenant regarding when rent is due, concessions for rent in exchange for renovations, claims of damages beyond unpaid rent, and submissions that some of the tenants have already moved out of the rental unit.

The landlord testified that the notice of hearing and the interim decision dated October 08, 2019 was served on the tenant on October 11, 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 for unpaid rent, unpaid utilities and the filing fee?

Background and Evidence

The landlord testified that the tenancy initially started on January 18, 2018 but some of the tenants moved out sometime in June 2019.

The landlord entered into a second tenancy agreement with the remaining tenants and new tenants, effective July 06, 2019. The monthly rent of \$2,500.00, is due on the 20th of each month.

The landlord testified that the tenant owed rent in the amount of \$1,800.00 for August 2019 plus utilities in the amount of \$1,489.00. On July 03, 2019 the landlord had served the tenant with a notice of unpaid utilities and filed copies of the utility bills into evidence. On August 29, 2019, the landlord served the tenant with a ten day notice to end tenancy, for \$1,800.00 in unpaid rent plus \$1,489.00 for unpaid utilities, by posting the notice on the door. The tenant did not dispute the notice and continued to occupy the rental unit without paying rent.

The landlord further testified that the tenant failed to pay rent that was due on September 20, 2019 and failed to pay rent that was due on October 20, 2019. The landlord testified that at the time of this hearing the tenant owes rent in the total amount of \$6,800.00 plus \$1,489.00 in unpaid utilities.

The landlord is applying for an order of possession effective two days after service on the tenant and for a monetary order in the amount of \$6,800.00 for unpaid rent, \$1,489.00 in unpaid utilities plus \$100.00 for the recovery of the filing fee.

Analysis

Based on the sworn undisputed testimony of the landlord and the documents filed into evidence, 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 September 01, 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 \$8,289.00.00 for unpaid rent and unpaid utilities. Since the landlord has proven his case, he is also entitled to the recovery of the filing fee of \$100.00 for a total claim of \$8,389.00.

I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount due of \$8,389.00. 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 in the amount of **\$8,389.00**.

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: November 08, 2019

Residential Tenancy Branch