



Dispute Resolution Services

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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 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 November 04, 2019, the adjudicator adjourned the hearing to a participatory hearing.

Notices of the reconvened hearing were enclosed with the interim decision. The landlord was instructed to serve the notice of reconvened hearing, the interim decision, and all other required documents, upon the tenant within three (3) days of receiving this decision, in accordance with section 89 of the *Act*.

The notice of hearing package was served on the tenant on November 08, 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 provide affirmed testimony, present evidence and make submissions. I found that the tenant had been served with the notice of hearing package in accordance with section 89 of the *Act* and therefore the hearing proceeded in the absence of the tenant.

Issues to be decided

Is the landlord entitled to an order of possession and a monetary order for unpaid rent and the filing fee?

Background and Evidence

The tenancy started in November 2017. The landlord testified that the current monthly rent is \$1,090.00 due on the first of each month.

The landlord testified that the tenant fell behind on rent and as of October 01, 2019, the tenant owed \$565.00 for September 2019 plus \$1,090.00 for October 2019

On October 03, 2019; the landlord served the tenant with a ten day notice to end tenancy, in person to the tenant's adult son at the rental unit. The tenant did not dispute the notice. On October 11, 2019, the tenant paid the balance of rent for September but failed to pay rent for October.

The landlord testified that as of the date of this hearing, the tenant owed rent for October, November and December 2019 in the total amount of \$3,270.00.

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 \$ 3,270.00 for unpaid rent. The landlord is also applying for the recovery of the filing fee of \$100.00.

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 October 03, 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 \$3,270.00 for unpaid rent plus the filing fee of \$100.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount due of \$3,370.00. 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 **\$3,370.00**.

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: December 20, 2019

Residential Tenancy Branch