



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPU, MNR, MNSD, MND, MNDC, FF

Introduction

These hearings dealt with applications by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent, unpaid utilities, cost of repairs 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 April 30, 2020 by registered mail and by posting the package on the front door. 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.

During the hearing the landlord informed me that he does not know the extent of the damage inside the rental unit and requested that this portion of his application regarding his monetary claim for repairs and cleaning be dismissed with leave to reapply. Since the landlord has not yet gained possession of the unit, I will grant the landlord's request. I also dismiss the landlord's claim to retain the security deposit in partial satisfaction of his claim, with leave to reapply.

Accordingly, this hearing only dealt with the landlord's application for an order of possession and for a monetary order for unpaid rent, unpaid utilities and the filing fee.

Issues to be decided

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

Background and Evidence

The landlord testified that the tenancy started on April 24, 2019 for a fixed term of one year. The landlord filed a copy of the tenancy agreement into evidence. The monthly rent is \$1,600.00 due in advance on the first of each month and does not include utilities. The tenant is required to pay 70% of the utility bills. Prior to moving in the tenant paid a security deposit of \$800.00.

The landlord testified that the rental unit consists of a three-bedroom suite located on the upper level of the landlord's home. The landlord lives downstairs. The landlord stated that the tenant was a single mother and he was sympathetic towards her and often gave her additional time to pay rent at her request.

The tenant failed to pay rent on January 01, 2020 and the landlord agreed to give her more time to do so. The tenant did not pay rent for January and failed to pay rent that was due on February 01, 2020. On March 01, 2020, the landlord served the tenant with a notice to end tenancy for unpaid rent and utilities. The tenant did not dispute the notice and continued to occupy the rental unit without paying rent.

The landlord contacted the Residential Tenancy Branch office for information on how to proceed during the pandemic. The tenant stated that based on the information given to him he waited until April 27, 2020 to make this application. The landlord wanted to amend his application to include an order of possession but instead made a second one in error on May 11, 2020.

The landlord is applying for an order of possession effective two days after service on the tenant and for a monetary order for unpaid rent for the months of January 2020 to June 2020 in the total amount of \$9,600.00. The landlord has also applied for the tenant's share of the utilities (70%) which works out to \$1,000.00. The landlord filed copies of the utility bills and proof of service of a notice to the tenant regarding outstanding utilities.

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 March 01, 2020 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 \$9,600.00 for unpaid rent plus \$1,000.00 for unpaid utilities. 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 \$10,700.00.

I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$10,700.00. 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 **\$10,700.00**.

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 16, 2020

Residential Tenancy Branch