



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PROSPERO INTERNATIONAL REALTY
INC. 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, unpaid utilities, late fees 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 26, 2020 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, unpaid utilities, late fees and the filing fee? Is the landlord entitled to retain the security deposit?

Background and Evidence

The landlord testified that the tenancy started on August 15, 2014. The current monthly rent is \$877.00 due in advance on the first of each month. A copy of the tenancy agreement was filed into evidence. A term of the agreement required the tenant to pay a late fee of \$25.00 for rent paid after the first of each month.

The landlord testified that the tenant owes \$800.00 for rent for November 2019, has failed to pay rent since then and continues to occupy the rental unit. The landlord also testified that the tenant owes \$236.49 for utilities and filed a copy of a utility bill.

The landlord stated that the tenant avoided contact with the landlord and did not respond to text messages. The tenant has continued to occupy the rental unit without paying rent. On February 06, 2020, the landlord served the tenant with a 10-day notice to end tenancy for unpaid rent by posting the notice on the front door. 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 total amount of \$8,230.49 which includes \$7,794.00 for unpaid rent for the months of November 2019 to July 2020, \$236.49 for unpaid utilities, \$100.00 for late fees plus \$100.00 for the filing fee. The landlord is also applying to retain the security deposit of \$392.50 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 is deemed to have received the notice to end tenancy for unpaid rent, on February 09, 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 for unpaid rent, utilities and late fees. 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 \$8,230.49.

I order that the landlord retain the security of \$392.50 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 \$7,837.99. 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 **\$7,837.99**.

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 14, 2020

Residential Tenancy Branch