



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, and the filing fee. The landlord confirmed that the rental unit is a suite that is located in the side of a duplex.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The tenant acknowledged receipt of evidence submitted by the landlord. Both parties gave affirmed testimony.

Issues to be decided

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

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The tenancy started on August 02, 2018. The current monthly rent is \$700.00 due in advance on the first of each month. The landlord stated that the tenant failed to pay rent for November 2022 and on November 04, 2022, the landlord served the tenant with a ten day notice to end tenancy for unpaid rent in the amount of \$700.00, in person.

The tenant acknowledged having received the notice to end tenancy. The tenant stated that she did not pay rent because she did not have heat in the unit and the landlord did not respond to her request to have the heating repaired/restored. The landlord stated that he was not notified about the problem.

The tenant did not dispute the notice to end tenancy, did not pay rent and continues to occupy the rental unit. The tenant agreed that at the time of the hearing she owed the landlord rent for the months of November 2022 to February 2023 in the total amount of \$2,800.00 in unpaid rent. The landlord is applying for an order of possession effective on February 28, 2023, and for a monetary order in the amount of \$2,800.00 for unpaid rent plus \$100.00 for the filing fee, for a total monetary claim of \$2,900.00.

Analysis

Based on the testimony of both parties, 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 November 04, 2022, 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. The Order may be filed in the Supreme Court for enforcement.

I further find that the landlord is entitled to \$2,800.00 for unpaid rent. Since the landlord has proven his case, he is also entitled to the filing fee of \$100.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for \$2,900.00. 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 by 1:00 pm on February 28, 2023, and a monetary order for **\$2,900.00**.

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: February 13, 2023

Residential Tenancy Branch