



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding METCAP LIVING MANAGEMENT
INC and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPC, MNRL-S, FFL

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession pursuant to a notice to end tenancy for cause and for a monetary order for unpaid rent and for the recovery of the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her monetary claim.

The notice of hearing and evidence package was served on the tenant on January 10, 2023, by registered mail. The landlord filed a copy of the registration slip. 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?

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

Background and Evidence

The landlord testified that the tenancy started on August 01, 2022. The monthly rent is \$4,953.00 payable on the first of each month. Prior to moving in the tenant paid a security deposit of \$2,476.50. The landlord testified that right from the start of tenancy the tenant was late paying rent. The landlord filed a copy of the ledger confirmed that the tenant paid rent late for the months of August, September and October 2022.

The tenant failed to pay rent on November 01, 2022. On November 18, 2022, the landlord served the tenant with a 30 day notice to end tenancy for cause with an effective date of December 31, 2022. The landlord served the tenant with the notice by registered mail and filed a copy of the registration slip into evidence.

One of the reasons for the notice was that the tenant was repeatedly late paying rent and the other was that the tenant had put the landlord's property at significant risk. The landlord stated that it was brought to her attention that the tenant was using the unit for short term rentals with Airbnb.

The tenant did not dispute the notice. The tenant continues to occupy the rental unit and at the time of making the application for dispute resolution, the tenant owed \$9,956.00 in unpaid rent. The landlord testified that the tenant paid rent for December 2022 and January 2023. The tenant paid rent for February on February 01, 2023, by cheque which the landlord testified was returned for insufficient funds. The landlord testified that at the time of this hearing, the tenant owed \$14,941.00 in unpaid rent.

The landlord has applied for an order of possession effective two days after service on the tenant and for a monetary order for unpaid rent in the amount of \$14,941.00 plus \$100.00 for the filing fee.

Analysis

Based on the undisputed testimony and documentary evidence of the landlord, I find that the tenant is deemed to have received the notice to end tenancy, on November 23, 2022 and did not make application, pursuant to Section 47 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 unpaid rent in the amount of \$14,941.00. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$100.00. I order that the landlord retain the security deposit of \$2,476.50 in partial satisfaction of the claim.

I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$12,564.50. 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 \$12,564.50.

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 09, 2023

Residential Tenancy Branch