



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction

The landlord applied on January 16, 2023 for:

- (i) an order of possession on an undisputed notice to end tenancy (the “Notice”) under section 55(2)(b) of the *Residential Tenancy Act* (the “Act”);
- (ii) a monetary order for unpaid rent under section 67 of the Act; and
- (iii) authorization to recover the cost of the filing fee under section 72 of the Act.

The landlord attended the hearing. No one dialled in on behalf of the tenant during the hearing, which lasted from 1:30 P.M. to 1:45 P.M. The landlord testified under oath that the landlord served a *Notice of Dispute Resolution Proceeding* on the tenant by registered mail. There is proof of tracking information submitted into evidence. It is my finding that the tenant was served with the required notice in compliance with the Act.

Issues

1. Is the landlord entitled to an order of possession?
2. Is the landlord entitled to a monetary order for unpaid rent?
3. Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

In reaching this decision, I have considered all relevant evidence that complied with the *Rules of Procedure*. Only the necessary oral and documentary evidence that helped resolve the issues of the dispute and explain the decision is included below.

The tenancy began October 21, 2022. Rent is \$2,900.00 due on the 21st day of the month. The landlord currently retains a \$1,450.00 security deposit. There is a copy of the written tenancy agreement in evidence.

The landlord served the Notice on December 11, 2022 by delivering to the tenant in person, who was present to receive it. Page two of the Notice indicates that the tenant did not pay rent in the amount of \$2,900.00 that was due on November 21, 2022. All pages of the Notice were served and submitted into evidence. The tenant has not disputed the Notice and the landlord seeks an order of possession.

The landlord affirmed that the tenant currently has rental arrears of \$17,400.00, representing unpaid rent from November 2022 to April 2023.

Analysis

Section 26 of the Act requires tenants to pay rent the day it is due unless they have a legal right to withhold rent. Section 46(1) of the Act allows landlords to end a tenancy with a *10 Day Notice to End Tenancy for Unpaid Rent* on any day rent remains unpaid following the day rent is due.

Section 55(2)(b) of the Act permits a landlord to request an order of possession when (i) a *10 Day Notice to End Tenancy for Unpaid Rent* has been given by the landlord; and (ii) the tenant has not made an application to dispute the notice within 5 days of receiving such notice.

In this case, the landlord served the Notice in accordance with the Act. Further, I find that the Notice complies with section 52 of the Act, and the tenant has not made an application to dispute the Notice. As such, it is my finding that the landlord has proven on a balance of probabilities that the landlord is entitled to an order of possession.

A copy of the order of possession is issued with this Decision to the landlord. The landlord must serve a copy of the order of possession upon the tenant.

Since the application relates to a section 46 notice to end tenancy, the landlord is entitled to an order for unpaid rent under section 55 of the Act. Therefore, the tenant is ordered to pay \$17,400.00 in unpaid rent to the landlord.

Since the landlord is successful in its application, the landlord's application to recover the cost of the filing fee under section 72 of the Act is granted.

Pursuant to sections 38 and 72 of the Act, the landlord is ordered to retain the \$1,450.00 security deposit as partial satisfaction of the payment order. A monetary order for the remaining amount of \$15,950.00 is attached to this Decision and must be served on the tenant.

Conclusion

The application is granted. The landlord is awarded an order of possession and a monetary order in the amount of \$15,950.00.

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: May 03, 2023

Residential Tenancy Branch