



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes:

OPR, MNR, MNSD, FF.

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- A monetary order pursuant to Section 67 for unpaid rent and to retain the security deposit;
- An order of possession to the landlord pursuant to Section 55;
- An order to recover the cost of filing the Application for Arbitration pursuant to Section 72.

Issues to be decided

- Is the landlord is entitled to an Order of Possession based on the Ten Day Notice to End Tenancy for unpaid rent?
- Is the landlord is entitled to monetary compensation against the tenant for rent, and to recover the filing fee for this application?

Background and Evidence

I find that the Notice to End Tenancy dated September 02, 2008 was served on the Tenant on September 02, 2008 by way of personal service and the Application for

Arbitration dated August 14, 2008 was served on the tenant on August 15, 2008 by personal service.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

The landlord testified that the tenancy started on December 01, 2007 and the tenant paid a damage deposit of \$ 475.00 on November 15, 2007. The monthly rent is \$950.00 due on the first of the month. The tenant has not paid rent for the months of August and September and the landlord is claiming a late fee in the amount of \$50.00 per month.

As per section 7 (1) (d) of the *Residential Tenancy Regulations*, the landlord can charge an administration fee of not more than \$25.00 for late payment of rent. The tenant is still in occupation of the suite and the landlord is claiming the following:

- \$ 1900.00 Rent for August and September 2008
- \$ 50.00 Late fees
- \$ 50.00 The fee for filing this application
- An order of possession effective two days after serving it on the tenant.

Analysis

Based on the testimony of the Landlord, I accept his affirmed evidence in respect of the claim. I find that the landlord is entitled to two months rent, the late fee and is also entitled to the cost of filing this application. I order that the landlord retain the deposit and interest of \$480.88 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1519.12. This order may be filed in the Small Claims Court and enforced as an order of that Court.

I find that the landlord is entitled to an Order for Possession. There is outstanding rent. The Tenant has not made 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. The Order may be filed in the Supreme Court for enforcement.

Conclusion

I will issue the landlord the following orders:

- A monetary order in the amount of \$ 1519.12.
- An order of possession effective two days after service on the tenant.

September 12, 2008

Date of Decision