



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: OPR, OPC, OPB, MNR, MNSD, FF.

Introduction

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

- An order of possession, pursuant to Section 55;
- A monetary order for unpaid rent, pursuant to Section 67;
- An order to retain the security deposit, pursuant to Section 38;
- An order to recover the cost of filing this application pursuant to Section 72.

The notice of hearing dated December 24, 2008 was served on the tenant on December 30, 2008, by registered mail at the dispute address. Despite having been served the notice of hearing, the tenant did not show up for the hearing. The landlord attended the hearing and was 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.

Issues to be decided

- Is the landlord entitled to an order of possession for unpaid rent and/or breach of the tenancy agreement by the tenant?
- Is the landlord entitled to a monetary order to recover unpaid rent, retain the security deposit and recover the filing fee?

Background and Evidence

The landlord testified that the tenancy started on April 21, 2007. The monthly rent is \$803.67 due in advance on the first day of the month. The tenant paid a security deposit in the amount of \$387.50 on April 24, 2007.

The tenant failed to pay rent for the month of December 2008 and on December 16, 2008, was served with a ten day notice to end tenancy with an effective date of December 29, 2008. The tenant is currently in occupation of the rental suite and has

not paid rent for January 2009. The landlord is applying for an order of possession and a monetary order in the amount of \$1707.34 which consists of unpaid rent for two months, late fees of \$25.00 per month for two months and \$50.00 for the filing fee.

Analysis

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on December 16, 2008 and did not pay the 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 also find that the landlord is entitled to \$1707.34 for unpaid rent, late fees and the filing fee. I order that the landlord retain the security deposit and interest of \$397.38 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 \$1309.96. 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 **\$1309.96**.

Dated January 28, 2009.

Dispute Resolution Officer