



Dispute Resolution Services

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

DECISION AND REASONS

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 for unpaid rent, pursuant to Section 67;
- An order of possession, pursuant to Section 55;
- An order to retain the security deposit in partial satisfaction of the monetary claim, pursuant to Section 38;
- An order to recover the cost of filing the Application for Arbitration pursuant to Section 72.

The notice to end tenancy for non payment of rent, dated November 20, 2008 was served on the Tenant on November 15, 2008, in person. The notice of hearing dated January 06, 2009 was served on the tenant on January 08, 2009, in person. 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?
- 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 or about April 01, 2003. The monthly rent is \$350.00 due in advance on the first day of the month. The tenant owed rent from May 2008 in the amount of \$250.00, failed to pay rent for the following months of June 2008 to February 2009 and is currently in occupation of the rental suite.

The landlord stated that the tenant was a long term tenant and paid rent in a timely manner prior to May 2008. The tenant promised to catch up with rent when the tenant received a court settlement. Finally, the tenant agreed to move out on October 31, 2008 but did not do so. The tenant also agreed to move out on December 31, 2008, but cited the inclement weather as the reason for not doing so. The landlord is applying for an order of possession and a monetary order in the amount of \$3450.00 which consists of unpaid rent for ten 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 November 15, 2008 and did not pay his rent within five days of receiving the notice to end tenancy nor did he 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 \$3450.00 for unpaid rent and the filing fee. I order that the landlord retain the security deposit and interest of \$181.21 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 \$3268.79. 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 **\$3268.79**.

Dated February 05, 2009.

Dispute Resolution Officer