

DECISION AND REASONS

Dispute Codes: OPR, MND, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for unpaid rent and the filing fee. The landlord also applied for the cost of repairs and to retain the security deposit in partial satisfaction of his monetary claim.

The notice of hearing was served on the tenant on October 17, 2009 in person. 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.

The landlord has applied for damages but has not filed any evidence to support his claim. He stated that the tenant is currently residing in the unit and he was unable to assess the extent of the damage to the unit. I dismiss the tenant's application for the cost of repairs with leave to reapply. Therefore this hearing only dealt with the landlord's application for an order of possession and a monetary order for unpaid rent and the filing fee and to retain the security deposit.

Issues to be decided

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover unpaid rent, the filing fee and to retain the security deposit in satisfaction of his claim?

Background and Evidence

The landlord testified that the tenancy started on May 15, 2009. The monthly rent is \$900.00 due in advance on the first of each month. Prior to moving in, the tenant paid a security deposit of \$350.00. The tenant last paid rent in June and has failed to pay rent since then. The tenant is currently in occupation of the rental unit. On October 01, 2009, the landlord served the tenant with a ten day notice to end tenancy. This notice was served on the tenant by posting it on the front door.

The landlord has applied for an order of possession effective two days after serving it on the tenant and for a monetary order in the amount of \$4,500.00 which consists of rental arrears for the months of July to November 2009.

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 October 01, 2009 and did not pay 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 find that the landlord is entitled to \$4,500.00 for unpaid rent. Since the landlord has proven his case, he is also entitled to the recovery of the filing fee of \$50.00. I order that the landlord retain the security deposit of \$350.00 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 \$4,200.00. 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 **\$4,200.00**.

Dated November 30, 2009.

Dispute Resolution Officer