

DECISION

Dispute Codes:

OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of possession, a monetary Order for unpaid rent, to retain the security deposit, a monetary Order for damage or loss and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present affirmed oral testimony and to make submissions during the hearing.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession?

Is the landlord entitled to a monetary Order for unpaid rent?

Is the landlord entitled to retain the deposit paid by the tenant?

Is the landlord entitled to compensation for damage or loss under the Act?

Is the landlord entitled to filing fee costs?

Background and Evidence

This tenancy began in 1998 and in February 2000 the tenant signed a new tenancy agreement, commencing March 1, 2000. A deposit in the sum of \$287.50 was paid on March 1, 2000. Rent is \$717.00 per month, due on or before the first day of each month.

The tenant did not dispute either of 2 Notices issued by the landlord for unpaid rent; on February 10 and April 14, 2010.

During the hearing the parties came to a settled agreement. I have deducted the filing fee cost from the amount of rent arrears discussed during the hearing; however, I find that the landlord is entitled to return of the filing fee and that \$50.00 will be included in the payments to the landlord.

Settled Agreement

The parties agreed that the tenant currently owes \$1,350.38 in rent arrears that have accumulated since April, 2009.

The tenant agreed to make the following payments:

- \$800.00 before July 1, 2010;
- \$1,267.38 payments for rent, arrears and filing fee to be made during July, before August 1, 2010; and
- \$717.00 rent owed August 1, 2010.

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| Current arrears | 1,300.38 |
| Balance owed July 1, 2010 | 500.38 + 717.00 rent |
| To be paid between July 1 and 31, 2010 | 1,267.38 (includes filing fee of \$50.00) |
| Balance effective July 31, 2010 | 0 |
| August rent to be paid on August 1, 2010 | 717.00 |

The parties agreed that the landlord will be issued an Order of possession effective no earlier than July 1, 2010. If the tenant fails to pay \$800.00 by June 30, 2010, the landlord may serve the Order of possession after that date. If the \$800.00 is paid by June 30, 2010, the landlord may not serve the Order of possession until August 2, 2010 and that service will only be the result of a failure to pay the balance of rent arrears and filing fee by July 31, 2010 and the rent owed August 1, 2010.

Monetary Order

I find that the landlord is entitled to a monetary Order for the sum agreed owed to the landlord for unpaid rent from May 2009 to June, 2010, inclusive in the sum of \$1,300.38 plus the filing fee cost of \$50.00. Each party should retain records of any payments made, for use in Small Claims Court, should the payment schedule fail. The landlord is at liberty to submit an Application claiming any unpaid rent or other loss beyond June, 2010.

The landlord will continue to hold the deposit in trust to be disbursed as provided by the Act, should the tenancy end.

Conclusion

I find that the landlord established a monetary claim, in the amount of \$1,350.38, which is comprised of unpaid rent between May 2009 and June, 2010, inclusive and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution. If the tenancy ends, the landlord will disburse the deposit as provided by the Act.

The parties have reached a settled agreement for payment of the rent arrears and rent for July and August, 2010.

Based on these determinations I grant the landlord an Order of possession that may not be served before June 30, 2010. If the tenant pays the landlord \$800.00 by June 30, 2010, then the landlord must not yet serve the Order of possession.

If the tenant fails to pay the amount mutually agreed upon owed between July 1 and July 31, 2010, and fails to pay the rent owed on August 1, 2010, the landlord may serve the Order of possession that will be effective 2 days after service to the tenant.

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: June 16, 2010.

Dispute Resolution Officer