



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OP MNR FF

Introduction

This hearing dealt with applications by the tenant and by the landlord. The tenant applied to cancel Notices to End Tenancy. The landlord applied for an order of possession and a monetary order. The hearing was conducted by conference call. The landlord's representative called in and participated in the hearing. The tenant did not appear although she was personally served with the Application for Dispute Resolution and Notice of Hearing and her own application was scheduled to be heard at the same time as the landlord's application.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Background and Evidence

This tenancy began on May 1, 201 for a fixed term ending August 31, 2011. The rent is \$591.00 due in advance on the first day of each month. The tenant did not pay a security deposit. The landlord has given two Notices to End Tenancy; the first dated August 30, 2011 was a one month Notice to End Tenancy for cause. The second, dated September 2, 2011, was a 10 day Notice to End Tenancy for unpaid rent. The tenant was personally served with the 10 day Notice to End Tenancy on September 2, 2011. The tenant did not pay rent for September when it was due. The landlord's representative testified that there was a fire in the rental property on October 1, 2011 and the rental unit has been uninhabitable since then. The tenant has not resided in the rental unit since the fire, but she still has possessions in the rental unit.

Analysis

The tenant disputed the Notice to End Tenancy for unpaid rent and for cause but she did so late. The tenant failed to attend the hearing of her application and in the absence of an appearance by the tenant I dismiss her application to cancel the Notices to End Tenancy without leave to reapply.

Conclusion

Order of Possession – Section 55 of the *Residential Tenancy Act* provides as follows:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,
- (a) the landlord makes an oral request for an order of possession, and
 - (b) the director dismisses the tenant's application or upholds the landlord's notice.

The landlord has applied for and requested an order for possession. Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$591.00 for the outstanding rent for September. I do not award rent for October based on the landlord's testimony that the rental unit has been uninhabitable since October 1, 2011. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$641.00 and I grant the landlord an order under section 67 in the said amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: October 11, 2011.

Residential Tenancy Branch