



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *OPC, OPR, OPB, MND, MNSD, MNDC, MNR, FF*

Introduction

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

The notice of hearing was served on the tenant on September 10, 2012 in person by the landlord in the presence of a witness. 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.

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, cost of cleaning and repairs and the filing fee? Is the landlord entitled to retain the security deposit in partial satisfaction of her claim?

Background and Evidence

The tenancy started on November 15, 2010. The monthly rent is \$695.00 due in advance on the first of each month. Prior to moving in the tenant paid a security deposit of \$350.00.

The landlord testified that the tenant had changed the locks and did not permit the landlord to inspect the unit. However, upon visiting the unit for some maintenance work, the landlord noticed that the unit was in poor condition. As of the date of the hearing, the landlord was unable to determine the extent of damage that the tenant would be responsible for.

The landlord testified that starting March 2011, the tenant fell behind on rent and as of August 31, 2012 owed \$696.25 in unpaid rent. The tenant also failed to pay rent for September and October. The landlord served the tenant multiple notices to end tenancy, the latest on July 23, 2012. The tenant did not dispute any of the notices.

As of the date of the hearing, the tenant had not paid rent and continues to occupy the rental unit. The total rent owed by the tenant is \$2,086.25. The landlord has also applied for the filing fee of \$100.00 and for an order of possession effective two days after service on the tenant

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 cause, on July 23, 2012 and did not make application, pursuant to Section 47 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.

Since the tenant is currently occupying the rental unit, the landlord is unable to determine the actual cost of cleaning and repairs. I therefore dismiss the landlord's claim for damages with leave to reapply.

I find that the landlord is entitled to \$2,086.25.00 for unpaid rent. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$100.00. 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 \$1,836.25. 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 **\$1,836.25**.

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 12, 2012.

Residential Tenancy Branch