



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, 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 for a monetary order for unpaid rent, and the filing fee. The landlord also applied to retain a portion of the security deposit in satisfaction of her claim. Both parties attended the hearing and were 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, the filing fee and to retain a portion of the security deposit?

Background and Evidence

The tenancy started on October 31, 2010. The monthly rent is \$975.00 due in advance on the first of each month. Prior to moving in the tenant paid a security deposit of \$487.50 plus a pet deposit of \$487.50.

The landlord stated that the tenant failed to pay rent for November 2012. On November 02, 2012, the landlord served the tenant with a ten day notice to end tenancy. The tenant made partial payment towards outstanding rent and the landlord issued a receipt for use and occupancy only. At the time of the hearing, both parties agreed that the tenant owed a total of \$800.00 in unpaid rent and late fees. The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$800.00 for unpaid rent plus \$50.00 for the filing fee.

Analysis

Based on the sworn testimony of the both parties, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on November 02, 2012 and did not pay full 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 also find that the landlord is entitled to \$800.00 for unpaid rent and late fees. Since the landlord has proven her case, she is also entitled to the filing fee of \$50.00. I order that the landlord retain \$850.00 from the security and pet deposits.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. The landlord may retain \$850.00 from the security and pet deposits in full satisfaction of her monetary claim.

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: December 13, 2012.

Residential Tenancy Branch