



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, CNR, CNC, OLC, FF

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The tenant applied for an order to cancel two notices to end tenancy and for the recovery of the filing fee. The tenant also applied for an order directing the landlord to comply with the *Act*.

The notice of hearing was served on the tenant on October 19, 2018 by registered mail to the rental unit. The landlord provided a tracking number which is recorded on the previous page of this decision. Despite having been served the notice of hearing and having made application for dispute resolution, the tenant did not attend the hearing and therefore the tenant's application is dismissed. 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 and a monetary order?

Background and Evidence

The tenancy started in March 2018. The current monthly rent is \$1,250.00 due on the first of each month.

The landlord testified that the tenant failed to pay full rent for August 2018 and owed \$250.00 for that month. The tenant failed to pay rent on September 01, 2018, and on September 29, 2018; the landlord served the tenant with a ten day notice to end tenancy, by posting the notice on the front door. The tenant disputed the notice in a timely manner and continued to occupy the rental unit without paying rent. At the time of the hearing the tenant owed the landlord partial rent for August 2018 and full rent for September, October and November 2018 for a total of \$4,000.00 in unpaid rent.

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 \$4,000.00 for unpaid rent. The landlord is also applying for \$100.00 for the filing fee.

Analysis

Based on the undisputed sworn testimony of the landlord and in the absence of evidence to the contrary, I accept the landlord's evidence in respect of the claim. The tenant is deemed to have received the notice to end tenancy for unpaid rent on October 03, 2018 and did not pay rent within five days of receiving the notice to end tenancy, 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 \$4,000.00 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 grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of \$4,100.00. 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 **\$4,100.00**.
The tenant's application is dismissed in its entirety.

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: November 08, 2018

Residential Tenancy Branch