

# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **DECISION**

### **Dispute Codes:**

OPR, MNR, MNSD, MNDC, FF

### **Introduction**

This hearing dealt with an application by the landlord for an order of possession due to unpaid rent, a monetary order to recover rental arrears and inclusive of recovery of the filing fee associated with this application, and an order to retain the security deposit in partial satisfaction of the monetary claim. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on December 9, 2008 the tenant did not participate in the conference call hearing. The landlord advised during the hearing that the tenants had vacated the rental unit on December 8, 2008, having removed their belongings. The landlord concurred that an order of possession was not required.

The tenant did not call into the conference call hearing on this date.

### **Issue(s) to be Decided**

Is the notice to end tenancy valid?

Is the landlord entitled to the monetary amounts claimed?

### **Background and Evidence**

The tenancy began on October 1, 2008. Rent in the amount of \$1300 and utilities calculated to be in the amount of \$150 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$500. The tenant failed to pay rent in the months of November 2008 and on November 10, 2008 the landlord served the tenant with a notice to end

tenancy for non-payment of rent. The tenant further failed to pay rent in the month of December 2008 and the landlord made application on December 2, 2008 for dispute resolution. The tenants vacated the rental unit on December 8, 2008 and have left an amount of garbage behind, requiring removal. The unit also requires some cleaning and minor repairs for small holes in the walls which the landlord will attend to.

### **Analysis**

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding rent and has not applied for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

Based on the above facts I find that the landlord would have been entitled to an order of possession had the tenants remained.

As for the monetary order, I find that the landlord has established a claim for **\$2600** in unpaid rent and a prorated total of **\$190** for utilities for the two month period. The landlord is also entitled to recovery of the **\$50** filing fee for a total of **\$2840**.

### **Conclusion**

The order of possession is moot. I order that the landlord retain the deposit and interest of **\$501.62** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$2338.38**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated December 18, 2008