

DECISION

Dispute Codes: OPR, MNR, MNSD, FF

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Despite having been served with the application for dispute resolution and notice of hearing by express post on February 5, 2009, the tenants did not participate in the conference call hearing.

At the outset of the hearing, the landlord said that on March 7, the tenants moved out of the unit. The landlord therefore withdrew his application for an order of possession. Accordingly, I dismiss the landlord's application for an order of possession.

On September 1, 2007, the landlord collected a security deposit from the tenants in the amount of \$450.00. The tenancy began on the same day. Rent in the amount of \$900.00 is payable in advance on the first day of each month. The tenants failed to pay rent in the month of February, 2009 and on February 5, the landlord served the tenants with a notice to end tenancy for non-payment of rent. The tenants further failed to pay rent in the month of March.

The landlord is seeking to recover from the tenants outstanding rent for the month of February in the amount of \$500.00. The tenants lived in the rental unit until March 5. The landlord is therefore seeking to include a claim for loss of income for the month of March in the amount of \$900.00. I find that the tenants should reasonably have known that the landlord could not re-rent the unit while they were still in residence and I allow the claim for a further \$900.00.

The landlord is also seeking to recover from the tenants outstanding utility charges for an accumulative total of \$833.14. The landlord submitted an evidence package containing detailed calculation regarding the utility charges. However, the landlord said that he did not serve the tenants with this evidence package because the tenants did not leave a forwarding address. I have

therefore not admitted this documentary package as evidence for this hearing. During the hearing, the landlord testified in a straightforward and consistent manner. At no time did he try to exaggerate any of his evidence. I have therefore found him to be a credible witness and accepted all of his testimony as credible and trustworthy. Accordingly, I have also accepted his assertion that the tenants have not paid \$833.14 of their utility charges and I allow the landlord's claim for this amount.

Based on the above, I find that the landlord has established a claim for \$500.00 in unpaid rent, \$900.00 in loss of income and \$833.14 in utility charges. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the security deposit and interest of \$459.04 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1824.10. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated March 26, 2009.