

## **DECISION**

**Dispute Codes:** MND, MNR, MNSD, OPR, 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 registered mail on April 28, 2009, the tenants did not participate in the conference call hearing.

At the outset of the hearing, the landlord withdrew his application for an order of possession as he found the tenants to have moved out on or about May 15, 2009. I therefore dismiss the landlord's application in this regard. The landlord also withdrew his application for a monetary order for damages as they were not prepared to proceed with their claim. I therefore dismiss the landlord's claim for a monetary order for damages with leave to re-apply.

On December 5, 2008, the landlord collected a security deposit from the tenants in the amount of \$510.00. The tenancy began on December 1, 2008. Rent in the amount of \$1150.00 was payable in advance on the first day of each month. The tenants failed to pay rent in the months of March and April, 2009 and on April 9, 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 months of May and June.

The landlord is seeking to recover from the tenants outstanding rent of \$390.00 for March and \$1150.00 for April. The tenants lived in the unit until May 15, 2009. The landlord said that he had advertised to re-rent the unit on two websites and two local papers: the Sea to Sky and the Chief. But to date, he has not been to re-rent the unit. The landlord is therefore seeking to include a claim for loss of income for the months of May and June in the amount of \$2300.00. I find that the tenants should reasonably have known that the landlord could not

re-rent the unit while they were still in residence. I am also satisfied that the landlord has tried to mitigate his loss of income by advertising to re-rent the unit. I therefore allow the claim for a further \$2300.00.

As for the monetary order, I find that the landlord has established a claim for \$1540.00 in unpaid rent and \$2300.00 in loss of income. 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 \$510.56 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3379.44. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated June 02, 2009.