

# Dispute Resolution Services

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

## **DECISION AND REASONS**

**Dispute Codes:** OPR, OPB, MNDC, FF

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for loss of income and for the filing fee.

The notice of hearing dated May 21, 2009 was served on the tenant on May 21, 2009, by registered mail. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions

On May 31, 2009, the tenant moved out without returning the keys to the landlord. Since the tenant has moved out, the landlord withdrew her application for an order of possession. The landlord also stated that she would be making another application to recover the costs she incurred to repair the suite.

Therefore, this hearing only dealt with the landlord's monetary claim for loss of income for the month of June 2009 and the filing fee.

### **Issues to be decided**

Is the landlord entitled to a monetary order to recover loss of income and the cost of filing this application?

### **Background and Evidence**

The landlord testified that the tenancy started on April 01, 2009. The monthly rent was \$875.00 due in advance on the first of each month. A term of the tenancy agreement stated that smoking was prohibited inside the rental unit.

Due to excessive smoking inside the unit, the landlord served the tenant with a notice to end tenancy for cause. The tenants indicated that they would be moving out at the end of May, but refused to allow the landlord into the suite to conduct an inspection to assess the damage and to show the suite to prospective tenants.

After the tenant moved out, the landlord was able to enter the suite by hiring a locksmith. The landlord found the suite vandalised with cigarette burn marks everywhere. These marks were present on the entire flooring, counter tops and bath tubs. The landlord is in the process of fixing the damage.

The suite was not in any condition to be rented for June and the landlord is claiming loss of income for June in the amount of \$875.00 and \$50.00 for the filing fee.

### **Analysis**

In the absence of evidence to the contrary, I find that the tenant moved out May 31, 2009 leaving the suite damaged and unfit to rent to a new tenant. Therefore the landlord suffered a loss of income for the month of June.

Pursuant to *Residential Tenancy Policy Guideline #3*, if the premises are un-rentable due to damage caused by the tenant, the landlord is entitled to claim damages for loss of rent. Accordingly, I find that the landlord is entitled to loss of income for June in the amount of \$875.00. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$50.00. The landlord has established a claim of \$925.00.

### **Conclusion**

I grant the landlord an order under section 67 of the *Residential Tenancy Act* for **\$925.00**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated June 30, 2009.

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Dispute Resolution Officer