

# Dispute Resolution Services

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

## **DECISION AND REASONS**

**Dispute Codes:** OPR, MNR, MNSD, MND, 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 unpaid rent, loss of income and cost of repairs. The landlord also applied to retain the security deposit in partial satisfaction of her monetary claim.

The notice of hearing dated May 18, 2009 was served on the tenant on May 25, 2009, in person. The landlord stated that the tenant was in the process of loading boxes into a vehicle, when she served her with the notice of hearing.

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 30, 2009, the landlord had a phone conversation with the tenant. The tenant advised the landlord that she had moved out and would not be returning to the rental unit to clean up. She also advised the landlord to dispose of the remainder of her belongings that were left behind.

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 as she was unable to provide evidence for the same, in time for this hearing.

Therefore, this hearing only dealt with the landlord's monetary claim for rent, loss of income and to retain the security deposit. The tenant also requested that this application be amended to include the recovery of the filing fee.

**Issues to be decided**

Is the landlord entitled to a monetary order to recover unpaid rent, loss of income, retain the security deposit and recover the filing fee?

**Background and Evidence**

The landlord testified that the tenancy started on November 15, 2007. The monthly rent was \$1150.00 due in advance on the first of each month. A term of the tenancy agreement required the tenant to pay 60% of the utility bill. The tenant paid a security deposit in the amount of \$575.00.

The tenant failed to pay rent for May and on May 09, 2009, the landlord served the tenant with a ten day notice to end tenancy. The landlord stated that the tenant moved out on May 30, 2009 leaving behind extensive damage to the rental unit. The landlord was unable to rent the unit for June while the repairs were carried out. The landlord is claiming rent for May, loss of income for June, utilities in the amount of \$320.00 and the filing fee of \$50.00.

The landlord has filed utility bills to confirm the tenant's share of utilities.

**Analysis**

Section 26 of the *Residential Tenancy Act*, states that a tenant must pay rent when it is due under the tenancy agreement. In the absence of evidence to the contrary, I find that the tenant did not pay rent for May 2009 and moved out May 30, 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.

Based on the undisputed testimony of the landlord, I find that the landlord is entitled to rent for May and loss of income for June in the amount of \$2300.00. The landlord has also established a claim for the tenant's share of utilities, in the amount of \$320.00. Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of \$50.00.

I order that the landlord retain the security deposit of \$575.00 and accrued interest of \$9.75 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$2,085.25. This order may be filed in the Small Claims Court and enforced as an order of that Court.

**Conclusion**

I grant the landlord a monetary order for **\$2,085.25**

Dated June 26, 2009.

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Dispute Resolution Officer