## DECISION

**Dispute Codes**:  OPC, OPB, MNSD, MNDC, FF, O

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 4, 2009, the tenant did not participate in the conference call hearing.

The landlord withdrew her application for an order of possession as the tenant moved out on May 10, 2009.  I therefore dismiss the landlord's application in this regard.

On December 22, 2008, the landlord collected a security deposit from the tenant in the amount of $750.00.  The tenancy began on January 1, 2009 for a fixed term ending March 31, 2009.  Rent in the amount of $1600.00 was payable in advance on the first day of each month.  The tenant did not move out on March 31, 2009.  Instead, he continued to live in the unit without paying rent.  On May 10, 2009, the landlord found the tenant to have moved out of the unit.  The landlord was able to re-rent the unit for May 18, 2009.

The landlord said that the tenant had breached a material term of the tenancy agreement by failing to move out of the unit at the end of the fixed term tenancy. She is therefore claiming the resulting loss of income of $1600.00 for April and $800 for the period from May 1 to 15.  I find that the tenant should reasonably have known that the landlord could not re-rent the unit while he was still in residence and I allow a claim of $2400.00

As for the monetary order, I find that the landlord has established a claim for $2400.00 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 $750.31 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of $1649.69.  This order may be filed in the Small Claims Court and enforced as an order of that Court.