

## **DECISION**

**Dispute Codes:** OPR, MNR, MNDC, FF ERP, RP, RR

This hearing dealt with a cross applications by the parties. The landlords applied for an order of possession and a monetary order. The tenant applied for a monetary order for the cost of emergency repairs, compensation for loss under the *Act* or tenancy agreement and rent reduction and an order for the landlords to make repairs and emergency repairs to the unit.

At the outset of the hearing, the landlords withdrew their application for an order of possession as the tenant had moved out of the unit on or about June 25, 2009. The tenant withdrew her application.

The tenancy began on November 1, 2008. Rent in the amount of \$750.00 was payable in advance on the first day of each month. The tenant failed to pay rent in the month of June and on June 2, the landlords served the tenant with a notice to end tenancy for non-payment of rent.

The landlords are seeking to recover from the tenant outstanding rent for the month of June in the amount of \$750.00. The tenant argued that she could not remain in the unit due to a gas leak. Section 26 of the *Residential Tenancy Act* states that “A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this *Act*, the regulations or the tenancy agreement”. Based on the above, I find that the landlords are entitled to recovery of the June rent in the amount of \$750.00.

The landlords are also seeking to include a claim for loss of income for the month of July in the amount of \$750.00. The landlords said that the tenant did not give the required notice to end tenancy and they have not yet been able to re-rent the unit. The landlords' testimony in this regard was undisputed by the tenant.

Accordingly, I find that the tenant has failed to comply with Section 45 of the *Act* by failing to give the required notice to end tenancy. I also find that the landlords are entitled to recovery of the resulting loss of income for the month of July in the amount of \$750.00.

As for the monetary order, I find that the landlord has established a total claim of \$1500.00 comprised of \$750.00 in unpaid rent and \$750.00 in loss of income.

The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord an order under section 67 for the balance due of \$1550.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated July 09, 2009.