

## **DECISION**

Dispute Codes      MNR, MNSD, OPR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution 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.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on October 9, 2009, the Tenant did not appear.

### Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

### Background and Evidence

Based on the affirmed testimony of the Landlord, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent. The Tenant has not paid all the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

The Landlord also testified that the Tenant vacated the rental unit on or about October 10, 2009.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Although the Landlord is entitled to an order of possession in these circumstances, the Tenant has vacated the rental unit and therefore, an order of possession is no longer required.

I find that the Tenant failed to pay rent under the Act and tenancy agreement.

I find the Landlord has established a total monetary claim of **\$1,250.00**, comprised of \$100.00 for the balance of rent owed for September 2009, \$1,100.00 rent owed for October, and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord may retain the deposit of **\$550.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$700.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

The Landlord has leave to apply for further monetary orders.

### Conclusion

The Tenant failed to pay rent and did not file to dispute the Notice to End Tenancy, and vacated the rental unit. Therefore, an Order of Possession is not required.

The Landlord is granted a monetary order for rent due, and may keep the security deposit and interest, and has leave to apply for further monetary compensation.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 16, 2009.

---

Dispute Resolution Officer