

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, 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.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

### 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 testimony of both parties, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent on August 2, 2009.

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

The Tenant did not pay all of the rent that was due and did not file to dispute the Notice to End Tenancy.

During the course of the hearing, the Landlord explained the Tenant had made partial payments on the rent due, however, as of October 15, 2009, the balance owing the Landlord was **\$1,841.50**. The Landlord provided a detailed calculation of rent due and payments made.

The Tenant explained she had not reconciled her receipts and payments with the amount claimed by the Landlord. She wanted time to do this. It was explained to the Tenant that the purpose of this hearing was for both parties to provide their evidence and resolve the outstanding issues.

### Analysis

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

The Tenant has not paid 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.

I find that the Landlord is entitled to an order of possession effective **at 1:00 p.m. October 31, 2009**. This order may be filed in the Supreme Court and enforced as an order of that Court.

I accept the evidence of the Landlord that the Tenant owes \$1,841.50 in rents. The Tenant had insufficient evidence to dispute this amount.

Therefore, I find that the Landlord has established a total monetary claim of **\$1,891.50** comprised of \$1,841.50 and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit and interest of **\$554.82** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,336.68**.

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

### Conclusion

The Tenant failed to pay rent and did not file to dispute the Notice to End Tenancy. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

The Landlord is granted an Order of Possession, may keep the security deposit and interest in partial satisfaction of the claim and is granted a monetary order for the balance due.

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 28, 2009.

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Dispute Resolution Officer