

## **DECISION**

**Dispute Codes**      OPR, OPB, MNR, MNSD, MNDC, FF

### **Introduction**

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 February 17, 2010, the tenant did not participate in the conference call hearing.

At the outset of the hearing, the landlord withdrew the application for an Order of Possession for unpaid rent and for breach of the *Act*, Regulation or Tenancy Agreement because the tenant vacated the rental unit on February 22, 2010.

### **Issues(s) to be Decided**

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to a monetary order for damages for loss of revenue?

Is the landlord entitled to an order permitting the retention of the security deposit in partial satisfaction of the claim?

### **Background and Evidence**

The tenancy began on November 6, 2009. Rent in the amount of \$1,000.00 is payable in advance on the first day of each month and the landlord collected a pro-rated amount of rent for November, 2009.

At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$500.00.

The tenant failed to pay rent in the month of February, 2010 and on February 2, 2010 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant vacated the rental premises on February 22, 2010. The landlord further testified that the Landlord's Application for dispute Resolution contains a request for a monetary order in the amount of \$3,000.00, which was to include rent for March and April, 2010, assuming that the hearing would be scheduled for a later date, and for loss of income. The landlord admitted that there was no attempt to re-rent the unit after the tenant vacated, and the unit is still vacant.

### **Analysis**

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant has not paid the outstanding rent and has not applied for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Since the tenant has vacated the rental premises, the landlord has withdrawn the application for an Order of Possession.

Since the landlord has not made any attempt to mitigate any loss of revenue for the months of March and April, 2010, the application for loss of rent is dismissed without leave to reapply.

### **Conclusion**

As for the monetary order, I find that the landlord has established a claim for \$1,000.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the deposit and interest of \$500.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$550.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: March 22, 2010.

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Dispute Resolution Officer