

## **DECISION**

Dispute Codes      OPR, MNR

### Introduction

Having heard all the testimony of the applicant, under affirmation, and in the absence of any submissions from the respondent, although having been notified of the right to make such submissions I have determined:

### Issues(s) to be Decided

This was an application for an Order of Possession and a request for a monetary order for \$2750.00

### Background and Evidence

The applicant testified that:

- On September 11, 2009 he served the tenant with a 10 day Notice to End Tenancy for non-payment of rent.
- The tenant failed to comply with that Notice to End Tenancy, and is still in the rental unit seven months later.
- Since that time the tenant has been repeatedly late with the rent and as of today's date there is still \$625.00 outstanding 4 April 2010.

The applicant is therefore requesting an Order of Possession and an order for the outstanding \$625.00 rent.

### Analysis

The Notice to End Tenancy that was served on the tenant in September of 2009 may no longer be used to end this tenancy, because the landlord has collected at least seven months worth of rent since that notice was issued. By collecting rent the landlord has re-establish the tenancy. Therefore I am unable to issue an order possession based on the Notice to End Tenancy that was issued in September of 2009.

The landlord has shown however that the tenant does owe \$625.00 rent for the month of April 2010 and therefore I will allow the landlords claim for that outstanding rent.

### Conclusion

The request for an Order of Possession based on a Notice to End Tenancy that was issued in September 2009 is dismissed without leave to reapply.

Further, I have issued an order for the respondent to pay \$625.00 to the applicants

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: April 22, 2010.

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Dispute Resolution Officer