

## **DECISION**

Dispute Codes      OPR, CNR, MNR, MNSD, FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution.

The Landlord applied for an order of possession for unpaid rent, a monetary order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

An Occupant filed an Application for Dispute Resolution in the name of himself and the Tenant, requesting an order to cancel the Notice to End Tenancy for unpaid rent and claiming the Landlord is increasing the rent illegally.

As these were cross Applications both parties received the Notice of Hearing for this matter, however, neither the Occupant nor the Tenant appeared at the hearing.

**Since there was no appearance by the Occupant or the Tenant, their Application for Dispute Resolution is dismissed without leave to reapply.**

The Landlord appeared, gave affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to 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 the Landlord, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent on January 20, 2010. 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. As described above, an Occupant filed an Application for Dispute Resolution, though it has been dismissed.

The Landlord provided testimony that the Tenant apparently abandoned the rental unit and the Occupant and possibly other people remain in the rental unit property without right or authority.

The Landlord also provided in evidence a copy of the tenancy agreement which indicates only the Tenant and her child were allowed to occupy the rental unit. The rent was established as \$1,450.00 per month. The Landlord provided copies of post dated cheques provided by the Tenant which indicate monthly rent of \$1,450.00.

### 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, though an Occupant did apply to dispute the Notice in the Tenant's name. That Application is dismissed without leave to reapply because neither the Tenant nor the Occupant appeared at the hearing.

Therefore, pursuant to section 55 of the Act, I find that the Landlord is entitled to an order of possession effective **two days** after service on the Tenant and the Occupants. I order that the rental unit must be vacated by the Tenant and all Occupants. This order may be filed in the Supreme Court and enforced as an order of that Court.

I further find that the Landlord has established a total monetary claim of **\$4,400.00** comprised of \$4,350.00 in unpaid rent for January, February and March of 2010 and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit of **\$725.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$3,675.00**.

This order may be filed in the Provincial Court (Small Claims) 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 10, 2010.

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Dispute Resolution Officer