

## **DECISION**

Dispute Codes       MNR, MNDC, MNSD, OPL, CNC, OLC, RP, FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution.

The Landlord filed for an order of possession based on a Notice to End Tenancy issued to the Tenants, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

The Tenants filed to cancel the Notice to End Tenancy, for orders for the Landlord to comply with the Act, and for repairs to the rental unit.

Although they filed their own Application to be heard at the same time, and were served with the Landlord's Application for Dispute Resolution and Notice of Hearing by registered mail, sent on April 7, 2010, the Tenants did not appear. I find the Tenants have been duly served under the Act and have had Notice of this Hearing through their own Application.

The Landlord and his Agent appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

### Issue(s) to be Decided

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

Are the Tenants entitled to the relief sought?

### Background and Evidence

Based on the affirmed testimony of the Agent for the Landlord, I find that the Tenants were served with a 10 day Notice to End Tenancy for non-payment of rent and a one month Notice to End Tenancy for cause.

The Tenants have not paid all the outstanding rent, although they did apply to dispute the Notice.

The Agent for the Landlord testified the Tenants vacated the rental unit on April 15, 2010. They did not pay all the rent owed and have not paid utilities as required by the tenancy agreement. They left the unit damaged and not cleaned.

### Analysis

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

I dismiss the Tenants' Application for Dispute Resolution without leave to reapply, as the Tenants did not appear at the hearing.

I find that although the Landlord is entitled to an order of possession in these circumstances, the Tenants have vacated the rental unit and therefore, an order of possession is no longer required.

I find that the Tenants have failed to pay rent and utilities under the Act and tenancy agreement. I further find that the Tenants' have caused the Landlord a loss of rent for May 2010, as they left the rental unit damaged and did not clean it prior to vacating.

I find the Landlord has established a total monetary claim of **\$2,982.84**, comprised of \$750.00 for the balance of rent owed for April 2010, \$1,300.00 for loss of rent for May 2010, \$882.84 for unpaid utilities and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlords retain the deposit and interest of **\$650.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$2,332.84**. 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.

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: May 03, 2010.

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Dispute Resolution Officer