

## **DECISION**

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

### **Introduction**

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for unpaid rent, for a monetary order for unpaid rent, for an order permitting the landlord to retain the security deposit in partial satisfaction of the claim, and to recover the filing fee from the tenant for the cost of this application.

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

Is the landlord entitled to an Order of Possession for unpaid rent or utilities?

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

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

### **Background and Evidence**

At the outset of the hearing, the landlord testified that the tenant has moved out. He further stated that on March 30, 2010 the parties signed an Agreement to End Tenancy.

When questioned about how and when the tenant was served with the Landlord's Application for Dispute Resolution and notice of hearing documents, the landlord stated that he did not know if the tenant had been served, or if so, how or when. He further stated that the tenant would not give him a forwarding address.

### **Analysis**

Dispute resolution proceedings cannot be concluded or result in an order unless the applicant complies with the Residential Tenancy Act:

**59** (3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.

I find that this application is not an application referred to in subsection (6), which is living accommodation in a room in a residential hotel. Therefore, in the absence of the respondent, the landlord must comply with Section 59 (3) and must be able to prove that the respondent was served with the application and notice of hearing documents.

### **Conclusion**

The landlord's application for an Order of Possession is hereby dismissed as withdrawn.

The landlord's application for a monetary order for unpaid rent is hereby dismissed with leave to reapply.

The landlord's application for an order permitting him to retain the security deposit in partial satisfaction of the claim is hereby dismissed with leave to reapply.

Since the landlord has not been successful in this application, I decline to order that the landlord recover the filing fee from the tenant for the cost of this application.

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 11, 2010.

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Dispute Resolution Officer