

## **DECISION**

**Dispute Codes**      OPR, OPC, MNR, MNSD, 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 personally on April 6, 2010, the tenant did not participate in the conference call hearing.

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

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

Is the landlord entitled to an Order of Possession for cause?

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

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

### **Background and Evidence**

The month-to-month tenancy began on October 30, 2009. Rent in the amount of \$850.00 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$425.00.

The tenant failed to pay rent in the month of January, 2010 and on January 5, 2010 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. On January 19, 2010, the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause stating that the tenant is repeatedly late paying rent, and that the tenant has allowed an unreasonable number of occupants in the unit.

The tenant further failed to pay rent in the month of March, 2010 and on March 2, 2010 the landlord served the tenant with another 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The landlord testified that subsequently the tenant made payments in the amount of \$200.00 on April 20, 2010 and \$650.00 on April 26, 2010, but the tenant paid the landlord's daughter, and no receipt was given that specifically stated "For Use and Occupancy Only." Those payments bring the account to April 1, 2010 and currently the tenant is in arrears for rent for the months of April and May, 2010 for a total of \$1,700.00. The landlord believes that the tenant has moved out of the residence, but some furniture is still in the unit.

### **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, however the landlord accepted rental payments and is therefore conclusively presumed to have accepted that the tenancy has been reinstated. Based on the above facts I find that the landlord is not entitled to an Order of Possession.

As for the monetary order, I find that the landlord has established a claim for \$1,700.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee.

### **Conclusion**

I order that the landlord retain the deposit and interest of \$425.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,325.00. 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: May 31, 2010.

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Dispute Resolution Officer