

## **DECISION**

Dispute Codes – OPR, MND, MNR, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order due to unpaid rent.

The hearing was conducted via teleconference and was attended by the landlord only. The tenant did not attend.

The landlord submitted confirmation and testified that he served the tenant with notice of this hearing via registered mail on June 9, 2010. I find that the tenant has been served with the Notice of Hearing documents.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; for damage to the rental unit; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on June 12, 2006 for a month to month tenancy beginning on July 1, 2006 for the current monthly rent of \$720.00 due on the 1<sup>st</sup> of the month and a security deposit of \$350.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on May 15, 2010 with an effective vacancy date of May 25, 2010 due to \$960.00 in unpaid rent.

Documentary and testimonial evidence filed by the landlord indicates that the tenant failed to pay the full rent owed for the months of May and June 2010 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when it was posted to the rental unit door on May 15, 2010.

The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did make three payments of \$100.00 each on June 14, 21, and 23, 2010 leaving an outstanding balance of \$1,380.00. The landlord provided copies receipts issued that noted the money received was for use and occupancy only. The tenant did not apply to dispute the Notice to End Tenancy within five days.

The landlord testified the tenant had removed kitchen cabinet doors and had damage the linoleum in the rental unit. The landlord seeks compensation in the amount of \$750.00 but provided no evidence to support this claim.

### Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on May 18, 2010 and the effective date of the notice is amended to May 28, 2010, pursuant to Section 53 of the *Act*. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

In relation to the landlord's claim for damage to the rental unit, as the landlord has not provided the tenant an opportunity to repair any damage I dismiss this portion of the landlord's application with leave to reapply should the tenant fail to make repairs prior to the end of the tenancy.

### Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service on the tenant**. This order must be served on the tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,430.00** comprised of \$1,380.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$361.50 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,068.50**. This order must be served on the tenant and 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: June 30, 2010.

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Dispute Resolution Officer