

## **DECISION**

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

### **Introduction**

This hearing was convened by way of conference call this date to deal with the landlord's application for an Order of Possession for unpaid rent, for a monetary order for unpaid rent and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, 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 tenants for the cost of this application.

Despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on May 22, 2010, the tenants did not attend the conference call hearing.

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

- Is the landlord entitled to an Order of Possession for unpaid rent?
- Is the landlord entitled to a monetary order for unpaid rent?
- Is the landlord entitled to a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement?
- Is the landlord entitled to an order permitting the landlord to retain the security deposit in partial satisfaction of the claim?

### **Background and Evidence**

This fixed term tenancy began on February 1, 2010 and was to expire on January 31, 2011. The tenants paid rent for the month of February on or about February 1, 2010

and the landlord also collected a security deposit from the tenants at the outset of the tenancy in the amount of \$600.00. Rent in the amount of \$1,200.00 per month is due in advance on the 1<sup>st</sup> day of each month.

The landlord testified that the tenants did not pay rent for the month of March, 2010, and the landlord served the tenants with a notice to end tenancy. The tenants further failed to pay rent for the months of April, May and June, and convinced the landlord that under the Act, they were entitled to free rent for 3 months, and that the landlord was required to pay their moving expenses. The landlord gave the tenants \$375.00 in order to have the tenants vacate the unit. The tenants vacated the unit in mid-June, 2010.

### **Analysis**

Based on the landlord's evidence, I am satisfied that the tenants were served with the notice to end tenancy. The tenants moved out of the unit in mid-June, 2010, and therefore the application for an Order of Possession is not required.

I further find that the landlord has provided sufficient evidence that the tenants owe rent in the amount of \$4,800.00. The landlord is also entitled to recovery of the filing fee in the amount of \$50.00.

With respect to the moving expenses, I find that the tenants were not entitled to moving expenses, and therefore owe to the landlord the return of the \$375.00 paid to them.

### **Conclusion**

Since the tenants have moved out of the residence, and an Order of Possession is not required, I hereby dismiss the landlord's application for an Order of Possession.

As for the monetary order, I order that the landlord retain the deposit and interest of \$600.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due for rent in the amount of \$4,250.00. I also order that the

landlord recover \$375.00 from the tenants, for a total of \$4,625.00. 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: July 09, 2010.

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Dispute Resolution Officer