

## **DECISION**

**Dispute Codes:** *OPR, CNB, CNC, MNR, MND, FF*

### **Introduction.**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession pursuant to two notices to end tenancy served on the tenant for cause and non payment of rent. The landlord also applied for a monetary order for unpaid rent and the filing fee. The tenant applied for an order to cancel the notices to end tenancy. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession or should the notices to end tenancy be set aside? Is the landlord entitled to an order for unpaid rent and the filing fee?

### **Background and Evidence**

The landlord and tenant entered into a tenancy agreement on September 01, 2009. The rent is \$800.00 per month due on the first day of each month. The tenant paid a security deposit of \$400.00.

The landlord received several complaints from the other occupants of the building at all hours of the day and night regarding noise disturbances, fights requiring police intervention, several visitors to the unit, two occurrences of fires started inside the unit, broken windows, accumulation of belongings in the balcony that pose a fire hazard and incidents of attempted theft by visitors to the rental unit. On May 31 the landlord served the tenant with a notice to end tenancy for cause.

The tenant failed to pay full rent for July. On July 02, 2010, the landlord served the tenant with a ten day notice to end tenancy. The tenant continues to occupy the rental unit and has not paid the balance of rent due for the month of July.

The tenant did not dispute the amount of rent owed to the landlord, but stated that he had withheld rent due to the unacceptable conditions in the building with regard to security and repairs.

The landlord has applied for an order of possession effective two days after service on the tenant and for a monetary order in the amount of \$450.00 which consists of \$400.00 for unpaid rent and \$50.00 for the filing fee.

### **Analysis**

Based on the sworn testimony of both parties, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy on July 02, 2010 and did not pay overdue rent as of the date of this hearing. Therefore, the notice is upheld and pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. This Order may be filed in the Supreme Court for enforcement.

I find that the landlord has established a claim of \$400.00 for unpaid rent... Since the landlord has proven her claim, she is also entitled to the recovery of the filing fee of \$50.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of **\$450.00**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord an order of possession effective two days after service on the tenant and a monetary order in the amount of **\$450.00**

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 23, 2010.

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Dispute Resolution Officer