



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent. Both parties participated in the conference call hearing.

At the hearing the parties agreed that the tenant had vacated the rental unit. As an order of possession is no longer required, I consider that claim to have been withdrawn.

The landlord presented some evidence regarding damage to the rental unit. At the hearing I advised the landlord that as her application did not make a claim for the cost of repairing damage to the unit, her evidence regarding that damage was irrelevant. The landlord is free to make a further application for dispute resolution to recover the cost of repairing the unit.

The tenant likewise gave evidence regarding loss of quiet enjoyment during the tenancy and suggested that she was entitled to compensation. At the hearing I advised the tenant that as she had not made an application for dispute resolution, I could not hear or adjudicate her claim. The tenant is free to make an application for dispute resolution to claim compensation.

The landlord originally claimed \$1,000.00 in unpaid rent and stated in her application that although the tenant owed \$1,750.00, the landlord was only claiming \$1,000.00 due to the “inconvenience of plumbing.” Upon hearing the tenant state that she intended to make a claim against the landlord, the landlord asked to amend her claim to include a claim for the full amount of rent owing. I find it appropriate to allow that amendment. I find that the prejudice to the landlord in not allowing the amendment far outweighs the

prejudice to the tenant in allowing the amendment, particularly as the tenant advised that in her view, \$750.00 was inadequate compensation.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The parties agreed that the tenant was obligated to pay \$1,750.00 per month in rent and that she paid no rent in the month of June. The tenant argued that she should not have had to pay rent because the rental unit was unsanitary and because emergency repairs were required. The tenant also claimed that she had a letter from the landlord in which the landlord advised that no rent was payable for the month of June. The tenant did not enter a copy of that letter into evidence.

### Analysis

Section 26(1) of the Act provides as follows.

- 26(1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Although the Act has a provision by which tenants may withhold money from their rent to compensate them for the cost of emergency repairs, the tenant acknowledged that she had not paid for any emergency repairs. As the tenant did not provide a copy of the letter in which the landlord allegedly advised that no rent was payable for June, I find that rent was payable for that month.

I find that the tenant has not proven that she had a legally justifiable reason to withhold her rent. Accordingly I find that the landlord is entitled to recover \$1,750.00 in unpaid

rent for June. I further find that the landlord is entitled to recover the \$50.00 filing fee paid to bring her application. I award the landlord \$1,800.00.

Conclusion

I grant the landlord a monetary order under section 67 for \$1,800.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Dated: August 09, 2010

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Dispute Resolution Officer