

## **DECISION**

Dispute Codes      OPR, MNR, FF, MT, CNR, MNDC, RP, SS

### Introduction

This hearing dealt with applications from the landlord and the tenant pursuant to the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- recovery of the filing fee for this application from the tenant pursuant to section 72.

The tenant applied for:

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy pursuant to section 66;
- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent pursuant to section 46;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order to the landlord to make repairs to the unit pursuant to section 33; and
- authorization to serve documents or evidence in a different way than required by the *Act* pursuant to section 71.

The tenant did not appear at the hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord and his agent testified that they handed the tenant the 10 Day Notice to End Tenancy for Unpaid Rent on July 5, 2010. The landlord and his agent testified that they handed the tenant the landlord's application for dispute resolution package on July 28, 2010. They said that they received the tenant's application for dispute resolution package on July 16, 2010. I am satisfied that the notice to end tenancy and both applications for dispute resolution were served in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession? Is the landlord entitled to a monetary order for unpaid rent? Is the landlord entitled to recovery of the filing fee for this application from the tenant? Is the tenant entitled to a monetary order?

Background and Evidence

The landlord testified that this month-to-month tenancy commenced on November 1, 2009. The tenant was to pay \$475.00 on the first of each month. The landlord said that he continued to hold the tenant's \$237.50 security deposit, paid on November 1, 2009.

He testified that the tenant has not paid any rent for July, August or September 2010. He asked for an Order of Possession and a monetary order for the \$1,425.00 now outstanding from this tenancy.

Analysis

As the tenant did not attend the hearing, I dismiss her application.

I am satisfied by the undisputed evidence presented by the landlord that the landlord was correct in issuing the notice to end tenancy. I grant the landlord a 2 Day Order of Possession. I am also satisfied by the landlord's undisputed evidence that he is entitled to a monetary order for unpaid rent owing from July, August and September 2010. I grant the landlord a monetary award of \$1,425.00 in unpaid rent.

The landlord testified that he continues to hold the tenant's security deposit of \$237.50 plus interest from November 1, 2009 until the date of this decision. Over that period, no interest is payable on the landlord's retention of the security deposit. Although the landlord's application does not seek to retain the deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the security deposit in partial satisfaction of the monetary award.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

### Conclusion

I dismiss the tenant's application without leave to reapply. I grant the landlord an Order of Possession. I grant the landlord a monetary Order in the following terms.

<b>Item</b>	<b>Amount</b>
Unpaid July 2010 Rent	\$475.00
Unpaid August 2010 Rent	475.00
Unpaid September 2010 Rent	475.00
Less Security Deposit	-237.50
Recovery of Filing Fee for this application	50.00
<b>Total Monetary Order</b>	<b>\$1,237.50</b>

I allow the landlord to retain the tenant's security deposit in partial satisfaction of the monetary award and to recover the filing fee for his application from the tenant.

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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*.