

## **DECISION**

Dispute Codes      OPR, MND, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession pursuant to section 55;
- a monetary order for unpaid rent and for damage to the unit, site or property pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that he handed the tenant a 10 Day Notice to End Tenancy for Unpaid Rent on September 2, 2010. He said that he handed the tenant a copy of the application for dispute resolution hearing package on September 7, 2010. I am satisfied that the landlord served the tenant with the application for dispute resolution in accordance with the *Act*.

The landlord testified that the tenant vacated the rental premises on September 11, 2010. He said that he no longer requires an Order of Possession.

### Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and for damage caused by the tenant? Is the landlord entitled to retain the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover his filing fee from the tenant?

### Background and Evidence

The landlord testified that this month-to-month tenancy commenced on February 1, 2010. The landlord was to receive \$1,200.00 in rent on the first of each month. The landlord testified that he continues to hold \$250.00 of the tenant's security deposit paid on February 1, 2010.

The landlord testified that the tenant continues to owe \$1,200.00 in unpaid rent for September 2010. The landlord also submitted written and photographic evidence regarding damage to the landlord's stairs that the landlord maintains was caused by the tenant. He said that repairs were completed by a contracting company the day before the hearing at a cost of \$1,232.00. The landlord testified that this cost matched the estimate from this company, entered into written evidence before this hearing.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, a Dispute Resolution Officer may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party.

Based on the undisputed evidence presented by the landlord, I grant the landlord a monetary Order for \$1,200.00 in unpaid rent for September 2010, and \$1,232.00 in damage to the rental premises. I allow the landlord to retain the \$250.00 security deposit plus interest he continues to hold for this tenancy. No interest is owing for the period in question. Since the landlord has been successful in his application, I allow him to recover his filing fee for this application from the tenant.

### Conclusion

I grant the landlord a monetary Order in the following terms:

<b>Item</b>	<b>Amount</b>
Unpaid September 2010 Rent	\$1,200.00
Damage to Stairs	1,232.00
Less Security Deposit	-250.00
Recovery of Filing Fee for this application	50.00
<b>Total Monetary Order</b>	<b>\$2,232.00</b>

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*.