

## **DECISION**

Dispute Codes      OPR MNDC MNSD MNR FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for unpaid rent, a Monetary Order for unpaid rent or utilities, to keep all or part of the security deposit, for money owed or compensation for damage or loss under the Act, and to recover the cost of the filing fee from the Tenants for this application.

Service of the hearing documents, by the Landlord, to each Tenant was done in accordance with section 89 of the Act and sent via registered mail on August 5, 2010.

The Landlord appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form. No one attended on behalf of the Tenant's despite their being served with notice of today's teleconference hearing in accordance with the Act.

### Issues(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent under section 55 of the *Residential Tenancy Act*?

Is the Landlord entitled to a Monetary Order under sections 38, 67, and 72 of the *Residential Tenancy Act*?

### Background and Evidence

The Landlord testified that the tenancy agreement was initially entered into with three Tenants effective July 1, 2009. Rent was payable on the first of each month in the amount of \$1,475.00 and the Tenants paid a security deposit of \$740.00 on June 22, 2009.

The Landlord later entered into a verbal agreement with the Tenants that their rent would decrease to \$1,000.00 if there were only two Tenants occupying the unit. The \$1,000.00 per month became effective June 1, 2010. When the Tenants only paid \$500.00 towards July 2010 rent the Landlord issued a 10 Day Notice to End Tenancy

and served it to the Tenants by posting one copy on their door on July 20, 2010 and by giving a second copy to the downstairs tenant to hand to them.

The Landlord confirmed the Tenants vacated the rental unit on August 30<sup>th</sup> or 31, 2010 and he has re-rented the unit effective September 1, 2010. The Landlord withdrew his request for an Order of Possession. The Tenants left several pieces of furniture and a vehicle at the rental unit and when he contacted the Tenants about these articles they told him to keep the security deposit to cover his expenses. Because of this agreement the Landlord does not want the security deposit to be offset against his monetary order.

The Landlord is seeking \$500.00 unpaid rent for July 2010 and \$1,000.00 unpaid rent for August 2010.

### Analysis

All of the testimony and documentary evidence was carefully considered.

I find that in order to justify payment of damages or losses under section 67 of the *Act*, the Applicant Landlord would be required to prove that the other party did not comply with the *Act* and that this non-compliance resulted in costs or losses to the Applicant Landlord pursuant to section 7.

In this instance, the burden of proof is on the Landlord to 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 Tenant.

The Landlord claims for unpaid rent of \$1,500.00 which is comprised of \$500.00 due for July 2010 and \$1,000.00 for August 2010, pursuant to section 26 of the *Act* which stipulates a tenant must pay rent when it is due. I find that the tenant has failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. After reviewing the evidence I find the Landlord has proven his claim for damage or loss, as listed above, in the amount of \$1,500.00.

I find that the Landlord has succeeded with his claim and I hereby award recovery of the \$50.00 filing fee from the Tenants.

Conclusion

I HEREBY FIND in favor of the Landlord's monetary claim. A copy of the Landlord's decision will be accompanied by a Monetary Order for **\$1,550.00** (\$1,500.00 + \$50.00). The order must be served on the Respondent Tenants and is enforceable through the Provincial Court 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: September 28, 2010.

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Dispute Resolution Officer