

## **DECISION**

Dispute Codes      MNR, MNDC, FF

### Introduction

This is an application by the Landlord for a monetary order for unpaid rent, for money owed or compensation for damage or loss under the Act. Both parties appeared by conference call and gave affirmed testimony.

### Issues(s) to be Decided

Is the Landlord entitled to a monetary order regarding unpaid rent?

Has the Landlord established that the Tenant was negligent in causing damage to the property?

### Background and Evidence

This Tenancy began on September 1, 2009 on a fixed term tenancy for 6 months, which was to conclude on March 1, 2010. The monthly rent was for \$725.00 and was payable on or by the 1<sup>st</sup> of each month. The Landlord is seeking a monetary order in the amount of \$1,087.50. \$725.00 for the loss of rent from February 2010. As well a \$362.50 claim for damages to cover the cost of repairing a well and \$50.00 for the recovery of the filing fee. The hearing package was sent by registered mail to the Tenant's mothers house, which was the last known address provided to the Landlord on August 31, 2010.

Canada Post records through tracking numbers indicate that the package was picked up and signed for by the Tenant on September 7, 2010. The Landlord has provided into evidence an invoice from a plumbing and heating company for \$370.89 for repairs made to a motor. The Landlord has also made a claim to keep all or part of the damage

deposit to off-set her monetary claims. The Landlord claims that the Tenant failed to give any notice to end the tenancy. The Tenant confirms this and also ordered a stop payment on a post dated rental cheque for the months of February and March 2010. The Tenant stated that the Landlord had not given any consent to withhold the rent or they did not file an application for dispute or have an order from a dispute resolution officer to this effect.

### Analysis

I find that the Landlords request concerning the damage deposit is dismissed as that issue has already been decided in the previous application by the Tenant which was under review and decided.

The non-payment of the monthly rent of \$725.00 for February 2010 was held back by the Tenant. This was not subject to any agreement by the Landlord or order from dispute resolution. The Landlord has tried to mitigate their losses by re-renting this property in the month of March 2010. Based upon the fixed term agreement and the Landlords efforts, I find that the Landlord is entitled to the award of \$725.00 for loss of rent.

The remaining \$362.50 that the Landlord is claiming for damages resulting from negligence on the part of the Tenant has not been proven. Although, there is an invoice for the amount of \$370.89 for repairs to a motor for the well, the Landlord has not established or provided any proof that the Tenant was responsible. I note also that the Landlord states that this is a shared well with other Tenants as well. I find that the Landlord has not proven their claim for damages and dismiss this claim.

The Landlord has been substantially success in their claim for a monetary order, so I find that the Landlord be awarded the \$50.00 filing fee. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The Landlord is awarded a Monetary Order for \$775.00.

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*.