

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This is an application by the Landlord for an order of possession following a 10 day notice to end a tenancy and a monetary order for unpaid rent, to keep the security deposit, money owed or compensation for damage or loss and recovery of the filing fee. Both parties appeared by conference call and gave affirmed testimony. Both parties agree that the Tenant moved out on September 22, 2010 and an order of possession is no longer required. The Landlord also states that the monetary order sought is only in regards to loss of rent and recovery of the filing fee.

### Issues(s) to be Decided

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

Is the Landlord entitled to keep the security deposit?

### Background and Evidence

This Tenancy began on April 1, 2010 on a fixed term ending October 1, 2010. The monthly rent is \$1,225.00 payable on or before the 1<sup>st</sup> of each month. A security deposit of \$612.50 was paid on March 27, 2010. All this is shown on the tenancy agreement submitted into evidence. The Tenant has not given the Landlord one clear month of notice to end the tenancy. The Landlord states that the Tenant is in arrears of \$2,450.00 for the months of September and October, 2010. The Landlord is making a claim for an additional \$50.00 late payment fee for the months September and October 2010. The Tenant states that he vacated the rental unit on September 22, 2010 and the Landlord confirms this. The Landlord was able to re-rent the unit on October 15, 2010. The Landlord was originally seeking a monetary order of \$2,500.00, but was unable to provide costs or evidence for anything other than the loss of rent and late payment fees.

Analysis

I am satisfied that the Landlord has proven their case for a monetary order for unpaid rent. Both parties agreed that the Tenant failed to pay rent and give one clear month of notice to end the tenancy. The Landlord has mitigated his costs by re-renting the rental unit as soon as possible. I award to the Landlord, \$1,225.00 for September 2010 rent, \$612.50 for October 1-14, 2010 rent and \$50.00 for the late payment fees. Having been successful in their application, I also award the recovery of the \$50.00 filing fee. I order that the Landlord retain the \$612.50 security deposit in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$1,325.00. 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 granted a monetary order for \$1,325.00.

The Landlord may retain the security deposit.

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*.

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