

## **DECISION**

Dispute Codes      OPR, 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 pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover her 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. She testified that she handed the tenants a 10 Day Notice to End Tenancy for Unpaid Rent on July 13, 2010. She said that she sent the tenants a copy of her application for dispute resolution by registered mail on August 26, 2010. She provided the Canada Post Tracking Number for this mailing. I am satisfied that the landlord served the tenants with this application in accordance with the *Act*.

The landlord said that the tenants vacated the rental premises a few days earlier and that she no longer required an Order of Possession.

### Issues(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid rent and utilities? Is the landlord entitled to retain the tenants' security deposit in partial satisfaction of the monetary Order? Is the landlord entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

The landlord testified that this one-year fixed term tenancy commenced on June 15, 2008. She said that the tenancy was continued on a month-to-month basis after one year. The rent is set at \$950.00 per month, payable on the first of each month. The tenants are responsible for the landlord's utility costs for this rental unit.

The landlord testified that the tenants paid \$400.00 of their May 2010 rent and have not paid any rent since then. She asked for a monetary Order for \$550.00 for the unpaid May rent and \$950.00 per month for the following five months. She also asked for a monetary Order for \$206.55 in unpaid utilities arising from this tenancy.

### Analysis

On the basis of the undisputed evidence presented by the landlord, I grant the landlord a monetary award of \$550.00 for unpaid May 2010 rent, and \$4,750.00 for unpaid rent for the following five months. I also grant the landlord a monetary award of \$206.55 for unpaid utilities over this period. I allow the landlord to retain the tenants' security deposit plus interest to partially satisfy this monetary award. I also allow the landlord to recover her filing fee for this application.

### Conclusion

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

Item	Amount
Unpaid Rent (May – October 2010) $\$550.00 + (5 \times \$950.00) = \$5300.00$	\$5,300.00
Unpaid Utilities	206.55
Less Security Deposit $(\$500.00 + \$4.16 = \$504.16)$	-504.16
Recovery of Filing Fee for this application	50.00
<b>Total Monetary Award</b>	<b>\$5,052.39</b>

This monetary Order allows the landlord to retain the tenants' security deposit plus interest and to recover the filing fee for this application from the tenants.

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*.