

## **DECISION**

Dispute Codes      OPR MNR MNSD MNDC FF

### Introduction

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

Service of the hearing documents was conducted in person by the Landlord to the Tenant on August 20, 2010.

The Landlord appeared, gave affirmed testimony, was provided the opportunity to present their evidence orally, in writing, and in documentary form. No one attended on behalf of the Tenant despite her being served 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 pursuant to section 55 of the *Residential Tenancy Act*?

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

### Background and Evidence

The fixed term tenancy agreement began on February 1, 2007 switched to a month to month tenancy after January 31, 2008. Rent is payable on the first of each month in the amount of \$995.00 and the Tenant paid a security deposit of \$475.00 on January 20, 2007.

The Landlord testified that on August 2, 2010 a 10 Day Notice to End Tenancy was issued to the Tenant when she failed to pay her August 1, 2010 rent. The Tenant paid the balance owing on August 20, 2010, and the Landlord reinstated the tenancy. The

Landlord withdrew her request for an Order of Possession and is seeking a monetary order to recover the \$50.00 filing fee.

### Analysis

Section 7(1) of the Act provides that if a landlord or tenant does not comply with this Act, the Regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for the damage or loss which results. That being said, section 7(2) also requires that the party making the claim for compensation for damage or loss which results from the other's non-compliance, must do whatever is reasonable to minimize the damage or loss.

The evidence which includes a copy of the 10 Day Notice to End Tenancy, a copy of the tenancy agreement, and the Landlord's application for dispute resolution supports that the Tenant failed to pay her August 1, 2010 rent in accordance with section 26 of the Act. Although the Tenant has caught up on her rent payments and the tenancy has been reinstated the Landlord suffered a loss of \$50.00 to make their application for dispute resolution due to the Tenant's initial breach. Based on the aforementioned I approve the Landlord's request for a monetary order to recover the cost of the filing fee, pursuant to section 67 of the Act.

### Conclusion

A copy of the Landlord's decision will be accompanied by a Monetary Order for **\$50.00**. This order may be filed in Provincial Court and enforced 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: October 13, 2010.

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Dispute Resolution Officer