

## **DECISION**

**Dispute Codes:** OPR, CNR, MNR, MNSD, FF

### **Introduction.**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her monetary claim. The tenant applied for an order to cancel the notice to end tenancy.

The landlord served the notice of hearing on the tenant by registered mail. The landlord filed a tracking number. The tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order for unpaid rent and the filing fee and to retain the security deposit?

### **Background and Evidence**

The landlord and tenant entered into a tenancy agreement on September 15, 2010. The accommodation is subsidised housing and is allotted and rented based on a tenant's income and family size. The tenant's portion of the rent is \$554.00 payable on the first of each month. The tenant paid a security deposit of \$411.50.

The tenant failed to pay rent for October, November and December 2010 and continues to occupy the rental unit. On November 15 the landlord served the tenant with a ten day notice to end tenancy. The landlord has applied for an order of possession effective December 31, 2010 and for a monetary order for the outstanding rent in the amount of \$1,662 plus the filing fee of \$50.00.

### **Analysis**

Based on the undisputed sworn testimony of the landlord, I accept her evidence in respect of the claim. Pursuant to section 46 (4) of the *Residential Tenancy Act* within five days after receiving the notice to end tenancy, the tenant may pay the overdue rent. If the tenant does not pay rent, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit, by that date.

The tenant received the notice to end tenancy on November 15, 2010 and did not pay overdue rent within five days of receiving the notice. The tenant applied to dispute the notice but did not attend the hearing. Therefore, the notice is upheld and pursuant to section 55(2) I am issuing a formal order of possession effective on or before 1:00 p.m. on December 31, 2010. This Order may be filed in the Supreme Court for enforcement.

In the absence of evidence to the contrary, I find that the landlord has established a claim of \$1,662.00 for unpaid rent and \$50.00 for the filing fee. I order that the landlord retain the security deposit of \$411.50 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$1300.50. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord an order of possession effective on or before 1:00 p.m. on December 31, 2010. I also grant the landlord a monetary order in the amount of **\$1,300.50**

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: December 10, 2010.

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Dispute Resolution Officer