

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent and utilities, a monetary order for unpaid rent or utilities and recovery of the filing fee. The landlord participated in the conference call hearing but the tenants did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing by registered mail. I found that the tenants had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

### Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

### Background and Evidence

On January 5, 2011 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenants made a partial rent payment to the landlord after the notice was served however the landlord stated that he had not provided the tenants with a receipt noting 'for use and occupancy only, does not reinstate tenancy'.

As the landlord did not issue the tenants the proper receipt after accepting payment for the rent, the landlord has effectively reinstated the tenancy.

The landlord's application for an order of possession and a monetary order for unpaid rent based on the January 5, 2011, 10 Day Notice to End Tenancy for Unpaid Rent or Utilities is hereby dismissed without leave to reapply.

### Analysis

Based on the documentary evidence and testimony I find that the landlord is not entitled to an order of possession or a monetary order for unpaid rent or utilities.

As the landlord has not been successful in their application they are not entitled to recovery of the \$50.00 filing fee.

Conclusion

The landlord's application is dismissed without leave to reapply and the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 5, 2011 is set aside with the result that the tenancy continues uninterrupted.

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: February 23, 2011

---

Residential Tenancy Branch