

## **DECISION**

Dispute Codes      OPB, MNDC, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

### 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 loss of income?

### Background and Evidence

The tenancy began on or about February 4, 2011. Rent in the amount of \$800.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$400.00.

The landlord testified that the tenant gave him notice to move out of the rental unit by May 31, 2011 and has not paid the rent for the month of June although he has not issued the tenant a notice for unpaid rent.

The tenant testified that she gave notice to move out under duress on April 20, 2011 on instructions of the landlord, and after consulting with the Tenancy Branch she notified the landlord before April 30, 2011 that she was withdrawing her notice, the tenant adamantly disputes that she wanted to give notice but did so as a result of her roommate moving in with the landlord.

### Analysis

As explained to the parties at the outset of the hearing the onus or burden of proof is on the party making the claim, in this case the landlord. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

The landlord was unable to provide any documentation to support his claim.

### Conclusion

The landlord's application is dismissed.

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: June 30, 2011.

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Residential Tenancy Branch