

## **DECISION**

Dispute Codes      MNR, MNSD, FF, OPR

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. 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

At the outset of the hearing both parties advised that the tenant moved out of the unit on July 31, 2011. The landlord no longer requires an order of possession and accordingly I dismiss that portion of his application.

The tenancy began on or about April 2010 and ended July 31, 2011. Rent in the amount of \$775.00 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 \$387.50. The tenant failed to pay rent in the month(s) of July and on July 5, 2011 the landlord served the tenant with a notice to end tenancy. The landlord testified to the following; the tenant did not leave as required by the notice served and it caused him to lose rent for the month of August, and is seeking compensation for loss of revenue for that month.

The tenant testified to the following; she does not dispute the non payment of rent for the month of July, she was fully intending to move out on July 15 but was unable to

because of financial hardship, she is disputing the loss of revenue for August as she feels the landlord did not make any efforts in renting the suite.

### Analysis

When the tenant was asked if she realized that she had “overstayed” she replied “yes, I know”. The tenant wilfully ignored the notice knowing full well the tenancy was terminated on July 15<sup>th</sup>, yet continued to reside there until July 31, 2011 without communicating to the landlord of her personal and financial situation. I find that the tenant was not acting in good faith or in accordance with the Act.

I accept the landlord’s testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

As for the monetary order, I find that the landlord has established a claim for \$775.00 in unpaid rent and \$775.00 for loss of revenue. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$387.50 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1212.50. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlord is granted a monetary order for \$1212.50. The landlord may retain the security deposit.

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: August 10, 2011.

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Residential Tenancy Branch