

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This is an application filed by the Landlord for an order of possession resulting from a 10 day notice to end tenancy for unpaid rent and a monetary order for unpaid rent and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony.

At the beginning of the hearing the Landlord stated that an order of possession is no longer being sought as the Tenant has vacated the rental unit on September 10, 2011. The Landlord is still seeking a monetary order for the unpaid rent for September 2011.

The Tenant called into the conference call at 2:16pm and participated in the hearing at that time. The Tenant has requested an adjournment of this hearing as she states that she is not prepared and has not had an opportunity to file evidence in response. The Tenant stated in direct testimony that no rent was paid for September 2011 and that she complied with the notice by moving out within 10 of being served the 10 day notice to end tenancy for unpaid rent. The Tenant has cited unrelated issues concerning her Tenancy. The Tenant's application to adjourn the hearing is denied as the concerns relating to the tenancy are unrelated to the application filed by the Landlord.

### Issue(s) to be Decided

Is the Landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

The Landlord states that the Tenant was personally served with the notice of hearing package on September 8, 2011 at the rental unit. The Landlord's witness, D.S. (her brother) has confirmed that he was a witness that a notice of hearing package was served on September 8, 2011 at the rental unit to each Tenant. During the hearing the Tenant confirmed receiving the notice of hearing package.

The Landlord has filed late evidence received on October 4, 2011 at 2:00pm consisting of a copy of the 10 day notice to end tenancy dated September 1, 2011 and an incomplete copy of a 1 month notice to end tenancy for cause dated September 7, 2011. The Tenant has not filed any evidence.

The Landlord stated during the hearing that the Tenant was served with the 10 day notice to end tenancy for unpaid rent on September 1, 2011. The notice displays an adjusted move out date of September 10, 2011 and unpaid rent of \$1,125.30 that was due on August 31, 2011. The Tenant has confirmed receipt of the 10 day notice for unpaid rent and that the Tenants complied by moving out within 10 days of receiving the notice. The Tenant in her direct testimony stated that no rent was paid within the initial 5 days upon receiving the notice, nor did she file an application for dispute resolution against the 10 day notice dated September 1, 2011. The Tenant has confirmed the monthly rent amount and that the Landlord currently holds a security deposit of \$550.00 in trust. The Landlord has confirmed the \$550.00 security deposit.

### Analysis

As both parties have attended the hearing and have made reference to the evidence submitted by the Landlord, I am satisfied that the notice of hearing documents were properly served in person on September 8, 2011.

I accept the undisputed testimony and evidence of the Landlord. The Tenant's own direct testimony confirms the Landlord's claim of unpaid rent after the 10 day notice to end tenancy was received by the Tenant. The Tenant stated that she complied with the notice by vacating the rental unit within 10 days. The Landlord has established a claim for unpaid rent for September 2011 of \$1,125.30. The Landlord is entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$550.00 security deposit in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$625.30. 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 \$625.30. 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: October 04, 2011.

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Residential Tenancy Branch