

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, MNSD, FF

### **Introduction**

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent, for money owed or compensation for damage or loss, to keep all or part of the security deposit and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend, but a male individual named, "Doug" attended to state that the Tenant was not disputing the application and would be make reparations at a later time. No documentary evidence was submitted by the Tenant. Although there was no notification for an agent to appear for the Tenant, this individual provided no comments other than the Tenant was not disputing the application. As such, I find that both parties have been properly served with the notice of hearing and evidence submitted for this hearing.

### **Issue(s) to be Decided**

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to keep all or part of the security deposit?

### **Background, Evidence and Analysis**

This Tenancy began on September 1, 2010 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$950.00 payable on the 1<sup>st</sup> of each month. The monthly rent was \$955.00 per month for August and was increased to \$995.00 beginning on September 1, 2012. A \$475.00 security deposit was paid at the beginning of the tenancy.

The Landlord states that the Tenant was served with a 10 day notice to end tenancy for unpaid rent dated August 13, 2012 by posting it on the rental unit door. The Landlord states that the owed amount of \$980.00 consists of \$955.00 for August rent and a \$25.00 NSF charge when the cheque was returned. The Landlord states that no rent has been paid up until the date of this hearing and is also seeking \$995.00 for

September 2012 rent and a \$25.00 NSF charge for a returned cheque. The Total being applied for is \$2,000.00.

I find based upon the undisputed testimony of the Landlord that the 10 day notice to end tenancy for unpaid rent was properly served on August 13, 2012 by posting it to the rental unit door. No rent has been paid since this notice was issued. The Landlord also noted that a cheque for September was returned NSF. The Landlord has indicated that a letter was received on October 2, 2012 that the Tenant vacated the rental unit and that an order of possession was no longer required and that this portion of the application is withdrawn and requires no further action. I find that the Tenant has failed to pay the outstanding rent within the allowed 5 days and has not filed for dispute resolution to dispute the notice. The Tenant is conclusively presumed to have accepted that the Tenancy is at an end on the effective date of the notice. I note that as the notice was served on August 13, 2012 by posting on the rental door that it was effectively served pursuant to section 90 of the Residential Tenancy Act on August 16, 2012.

Based upon the above undisputed facts, I find that the Landlord has established a monetary claim for \$1,950 in unpaid rent (\$955.00 for August and \$995.00 for September), and \$50.00 for two NSF charges for a total of \$2,000.00. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$475.00 security deposit in partial satisfaction of this claim and I grant to the Landlord a monetary order under section 67 for the balance of \$1,575.00. 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 an order of possession and a monetary order for \$1,575.00. 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 05, 2012.

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Residential Tenancy Branch