

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF, CNR, MNDC, OLC, RP, LRE, RR

### Introduction

There are applications filed by both parties. The Landlord has made an application for an order of possession and a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee. The Tenant has made an application to cancel the notice to end tenancy issued for unpaid rent, a monetary order request for money owed or compensation for damage or loss, an order for the Landlord to comply with the Act, regulation or tenancy agreement, to have the Landlord make repairs to the unit, site or property, to suspend or set conditions on the Landlord's right to enter the rental unit, to reduce rent for repairs, services or facilities agreed upon but not provided and the recovery of the filing fee.

Both parties attended the hearing in person and gave testimony. As both parties have attended and have acknowledged receiving the notice of hearing and submitted evidence of the other party, I am satisfied that both parties have been properly served.

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agree to mutually end the tenancy on November 15, 2012 at or before 1:00 pm and that the Landlord shall receive an order of possession to reflect this agreement.

The above particulars comprise full and final settlement of all aspects of the dispute over possession arising from this application for both parties.

### Issue(s) to be Decided

- Is the Tenant entitled to a monetary order?
- Is the Landlord entitled to a monetary order?
- Is the Landlord entitled to retain the security deposit?

Background, Evidence and Analysis

This Tenancy began on May 10, 2012 on a fixed term tenancy until June 1, 2012 as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$2,100.00 payable on the 1<sup>st</sup> of each month and a security deposit of \$1,050.00 was paid on May 10, 2012.

The Landlord states that the Tenant was served with a 10 day notice to end tenancy issued for unpaid rent dated September 20, 2012. The notice states that \$2,100.00 in rent was due on September 1, 2012 and remains unpaid. The Tenant confirms that no rent was paid. Both parties agreed that no rent has been paid up until the date of this hearing. The stated effective date of the notice is September 30, 2012. The Landlord seeks a monetary order for the unpaid rent of \$4,200.00 consisting of \$2,100.00 for each month (September and October).

I find based upon the undisputed testimony that the Landlord has established a claim for \$4,200.00 in unpaid rent.

The Landlord also seeks recovery of \$571.45 for rent arrears for July 2012. Both parties agreed that this disputed amount was withheld by the Tenant for recovery of their labour for the cleaning and installation (labour) of a new laminate floor for approximately 825 sq. ft. Both parties agreed that a verbal agreement was made that the Landlord would provide the materials and that the Tenant would remove and clean the existing carpet flooring and install a new laminate floor. Both parties agreed that no set amount was agreed upon.

As both parties have confirmed that the \$571.45 was withheld by the Tenant from the Landlord for the July 2012 rent, I am satisfied that the Landlord has established a claim for this portion of the application.

The Tenant seeks labour costs for an additional \$525.00 for the installation of the laminate floor. The Landlord disputes the claim and states that although there was an agreement for the Tenant's labour to install the flooring, there was no agreement on what the compensation should be. The Landlord states that of the \$1,050.00 claimed by the Tenant, the Landlord has reimbursed the Tenant for \$525.00. Both parties agreed in their direct testimony that the Landlord would provide materials and the Tenant would provide the labour for the installation of the laminate flooring. No details were worked out as to what the compensation would be. The Tenant has provided numerous text messages from the beginning of the Tenancy to this application as evidence that requests for compensation from the Landlord in the form of an amount

equal to ½ of the monthly rent \$1,050.00 were made many times. The Tenant states that it took her husband approximately a 2 day period to install the flooring. I find that the Tenant has established a claim for the \$525.00 amount. Although no clear agreement on the compensation was worked out, I find the Tenant's claim for installation labour to be more than reasonable based upon the 825 sq. ft and the approximate 2 days of work.

The Landlord has established a total monetary claim of \$4,771.45 for unpaid rent. The Tenant has established a monetary claim of \$525.00. As both parties have been successful in their applications I decline to make any orders regarding the recovery of the filing fees for each party. Each party shall be responsible for their own. In offsetting the monetary claims of both parties, I find that the Landlord is entitled to \$4,246.45. I order that the Landlord may retain the \$1,050.00 security deposit currently held and I grant a monetary order under section 67 for the balance due of \$3,196.45. 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 \$3,196.45.  
The Landlord is granted an order of possession for November 15, 2012 by mutual agreement of both parties.

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 31, 2012.

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Residential Tenancy Branch