

# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **DECISION AND REASONS**

**Dispute Codes:** OPR, MNR, MNDC, MND, MNSD, FF

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for unpaid rent and the filing fee. The landlord also applied for the return of money given to the tenant for the purchase of two electric heaters which were not supplied to the landlord and for money owed by the tenant for the purchase of a television and some furniture from the landlord. The landlord also applied to retain the security deposit.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

At the start of the hearing, the landlord stated that the tenant had moved out on June 14, 2009 and therefore the landlord withdrew the portion of his application for an order of possession. However, the landlord also stated after the tenant moved out he noticed damage to a door, blinds, walls and the refrigerator, but did not have enough time to file evidence, prior to the hearing.

### **Issues to be decided**

Is the landlord entitled to a monetary order for unpaid rent, damages and the filing fee?

Is the landlord entitled to retain the security deposit?

### **Background and Evidence**

The tenancy started on June 23, 2008. The monthly rent was \$900.00 due in advance on the first day of the month. The tenant paid a security deposit of \$450.00.

The landlord stated that the tenant paid rent for March 2009 by a cheque that was returned to the landlord for insufficient funds. Upon the landlord's request for rent, the tenant paid the landlord \$800.00 in cash for March and owed \$100.00.

The landlord stated that that was the last time the tenant paid rent. The landlord is claiming rent for April, May and June 2009.

The tenant agreed that she owed the landlord \$100.00 for March. However, the tenant stated that she paid rent for April and only owed the landlord rent for May and half of June, since she moved out on June 14, 2009.

The landlord stated that he gave the tenant \$200.00 to purchase two electric heaters, but did not receive them. The tenant stated that she received only \$100.00 from the landlord and agreed that she did not supply the heaters to him and therefore owed the landlord, \$100.00.

The landlord stated that the tenant's friend agreed to pay the landlord \$100.00 for some furniture she took from the rental unit, but she never did. The landlord also claimed \$250.00 for a new television that he gave the tenant. The tenant stated that she was not responsible for her friend's debt to the landlord and that she paid the landlord \$150.00 for the television which was not new.

The landlord is claiming the following:

1.	Rent for March	\$100.00
2.	Rent for April, May and June	\$2,700.00
3.	Money given to tenant for purchase of heaters	\$200.00
4.	For new television	\$250.00
5.	For furniture sold to the tenant's friend	\$100.00
	<b>Total</b>	<b>\$3,250.00</b>

### **Analysis**

As explained to the parties during the hearing, the onus or burden of proof is on the party making a claim to prove the claim. 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 the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

In this case, the tenant stated that she paid rent for April and owes rent for May and half of June. The tenant has not filed any evidence to support her claim of having paid rent. In the absence of evidence from the tenant, I find that the tenant did not pay rent for April, May and June 2009 and also owes \$100.00 for March 2009. Therefore, I find that the landlord has established a claim for \$2,800.00 for unpaid rent.

Regarding the other monetary claims, the tenant stated that she received \$100.00 from the landlord for the purchase of the heaters and not \$200.00 that the landlord was claiming. In the absence of evidence from the landlord, I find that the landlord is entitled to \$100.00 for the heaters. Also, in the absence of evidence from the landlord, his claim for \$250.00 for a television and \$100.00 for furniture sold to the tenant's friend is dismissed.

Since the landlord did not have enough time to file evidence to support his monetary claim for other damages to the rental unit, I grant the landlord leave to re apply.

Based on the sworn testimony of both parties, I accept the landlord's evidence in respect of the claim. I find that the landlord is entitled to \$2,800.00 for unpaid rent, \$100.00 for the electric heaters and \$50.00 for the filing fee.

I order that the landlord retain the security deposit of \$450.00 and interest of \$3.54 in partial satisfaction of the claim and I grant the landlord an order, under section 67 of the *Residential Tenancy Act* for the balance due of \$2496.46. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord a monetary order in the amount of **\$2,496.46**.

Dated June 19, 2009.

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Dispute Resolution Officer