



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes            MNR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a Monetary Order to recover unpaid rent and a Monetary Order to recover the filing fee. At the outset of the hearing the landlord applied to amend her application to keep the tenants security deposit. I have allowed this amendment to the landlords application pursuant to section 64(3)(c) of the Act.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and were sent to the tenant by registered mail on September 23, 2009.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to a Monetary Order for unpaid rent, to keep the tenants security deposit and to recover the cost of filing her application pursuant to sections 67 and 7291) of the *Residential Tenancy Act (Act)*

### Background and Evidence

Both parties agree that this was a month to month tenancy which started on October 27, 2008 and ended on March 09, 2009. The tenant paid rent of \$450.00 each month which was due on the 1<sup>st</sup> of each month. The tenant paid a security deposit of \$225.00 on October 27, 2008.



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The landlord testifies that the tenant paid rent for March, 2009 and moved from the rental unit on or about March 09, 2009. On this date the tenant telephoned the landlord and gave her verbal notice after she had moved out of the rental unit. The landlord re-advertised the unit for rent and this took several months to find new tenants. The landlord is seeking a loss of rental revenue for April, 2009 due to the tenant not providing written notice to end the tenancy. However, she states that she is happy to just keep the tenants security deposit as she knows it would be hard on the tenant to pay any more rent.

The tenant testifies that she was not aware that she must give one month's written notice to end the tenancy. She claims she told the landlords mother-in-law at the beginning of March that she would be leaving the rental unit at the end of March, 2009 but instead decided to move on March 09, 2009. She claims the landlord did promise to return her security deposit but then changed her mind.

## Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. RTB Policy Guideline #3 – Claims for Rent and Damages for Loss of Rent states that a landlord is entitled to an amount sufficient to compensate the landlord for any loss of rent up to the earliest time the tenant could have legally ended the tenancy. Under section 45 of the Act, a tenant of a month-to-month tenancy must give one clear month's written notice. Consequently, I find that the tenant did not give one clear months notice to the landlord and as such the landlord is entitled to recover loss of rental income of \$450.00 for April, 2009.

However, the landlords application has been amended as the landlord only wants to keep the tenants security deposit against the amount owing to cover her costs for re-advertising the rental unit. As such, I find the landlord may keep the tenants security deposit of \$225.00 plus accrued interest of \$0.61 in full and final settlement of her claim for a loss of revenue.

As the landlord has been successful with her claim she is also entitled to recover the cost of filing her application of \$50.00 and a Monetary Order has been issued for that amount.



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## Conclusion

I HEREBY ORDER the landlord to keep the tenants security deposit and accrued interest in full and final settlement of her claim and issue a Monetary Order for \$50.00 to the landlord for the cost of filing her application.

A copy of the landlord's decision will be accompanied by a Monetary Order for \$50.00. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

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: December 21, 2009.

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Dispute Resolution Officer