



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes            MNR, MNSD, FF

### Introduction

This matter dealt with an application by the landlord for a Monetary Order for unpaid rent and to recover the filing fee for this proceeding. The landlord also applied to keep all of the security deposit.

Service of the hearing documents was done in accordance with section 89 of the *Act*. They were sent to the tenant by registered mail on April 17, 2010.

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

### Issues(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent?
- Is the landlord entitled to keep the tenants security deposit?

### Background and Evidence

This tenancy started on September 01, 2009. This was a fixed term tenancy which was due to expire on August 31, 2010. Rent for this unit was \$740.00 per month and was due on the first of each month. The tenant paid a security deposit of \$375.00 on September, 01, 2009. The tenant moved from the rental unit on February 28, 2010 although his notice period ended on March 31, 2010.

Residential Tenancy Branch  
Ministry of Housing and Social Development

The tenants states that originally he was renting a different unit from the landlord and paid a security deposit of \$375.00 and his first month's rent of \$750.00. However, due to some inappropriate action by an employee of the landlord he was unable to move into this unit and had to move to the unit mentioned in this dispute. The tenant states he never recovered the additional security deposit of \$5.00 or the additional \$10.00 rent from the landlord as the new unit was at a lower rent of \$740.00

The landlords' agent testifies the tenant did not pay rent for January, February and March, 2010 to the sum of \$2,220.00. The landlords' agent states that his property management company took over responsibility from the building from the owners (the previous property management company) on January 01, 2010. He states the tenant was informed about this change of property managers in writing from his company and was told he must pay rent to his company from January 01, 2010.

The tenant agrees that he did receive a letter from the landlords' agents company informing him of the change of property managers. He claims he did not receive any confirmation of this from the landlords or authorisation to pay rent to the new property management company. He was unsure who his landlords were and who had the legal right to collect his rent. The tenant testifies that his rent was always taken directly from his bank account by the landlords until January 01, 2010. The tenant testifies that he noticed this had not happened in February, 2010 when he checked his bank statements. The tenant states he did not attempt to contact the landlords about the letter until he realized his rent for January, 2010 had not been collected,

The tenant does not dispute that he owes rent for three months but feels he should not be penalised because the landlord did not follow proper procedures in notifying the tenant of the new agents who were now responsible to collect rent.

## Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. I find the tenant does not dispute that he owes rent to the landlord however he argues

Residential Tenancy Branch  
Ministry of Housing and Social Development

that this amount should be reduced because of the landlords' actions in not informing the tenant of the change in property management companies and who was legally entitled to collect his rent.

I find a landlord is entitled to appoint an agent to act on their behalf. While I do accept the tenants argument that the landlords did not act appropriately in informing the tenant that the new property management company was authorized to collect rent and left it up to the new company to inform the tenant of this I also find the tenant must bear some responsibility in this matter. Section 26 of the *Act* states: a tenant must pay rent when it is due whether or not the landlord complies with the *Act*, regulations or tenancy agreement. The tenant states he did receive a letter from the new property management company concerning the change over and that the tenant should start to pay rent to them from January 01, 2010 and the tenant does state that upon receipt of this letter he did not make any attempt to contact the landlord to determine if the letter gave the new property management company authorization to collect his rent. If the tenant had concerns about the validity of this letter he should have contacted the landlord to confirm its contents.

Consequently, I find in favor of the landlords application to recover unpaid rent. However, this amount has been reduced by \$10.00 as this was the overpayment of rent made at the start of the tenancy which was never returned to the tenant when he was forced to change his rental unit. Consequently, the landlord is entitled to recover the sum of **\$2,210.00** pursuant to s.67 of the *Act*. I also find as the landlord has established his claim for unpaid rent that he is entitled to keep the tenants security deposit of **\$375.00** and key despot of **\$115.00** in partial satisfaction of his claim pursuant to s. 38(4)(b) of the *Act*.

With regard to the landlords claim to recover his filing fee; as I find some fault in this matter lies with the landlord with regards to the way they informed the tenant of the change in property management companies I find they are only entitled to recover half the \$50.00 filing fee to the sum of **\$25.00** pursuant to s. 72(1) of the *Act*.

The landlord is entitled to a Monetary Order for the following amount:



# Dispute Resolution Services

Page: 4

Residential Tenancy Branch  
Ministry of Housing and Social Development

Unpaid rent for three months	\$2,220.00
Less security deposit	(-\$375.00)
Less overpayment at start of tenancy	(-\$10.00)
Subtotal	\$1,720.00
Half filing fee	\$25.00
<b>Total amount due to the landlord</b>	<b>\$1,745.00</b>

## Conclusion

I HEREBY FIND in partial favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,745.00**. 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: August 25, 2010.

---

Dispute Resolution Officer