



# 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 an order for monetary damages for loss of rent arising from the Tenant providing insufficient Notice to End Tenancy, and to recover the filing fee for the Application.

Two Agents for the Landlord appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlord served the Tenant with the Notice of Hearing and the Application by registered mail, sent on April 15, 2010, and deemed served five days later under the Act. Despite this the Tenant did not appear at the Hearing. I find the Tenant has been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues(s) to be Decided

Did the Tenant breach the Act or tenancy agreement, entitling the Landlord to monetary compensation?

### Background and Evidence

The parties signed a tenancy agreement for the rental unit on August 3, 2005, and the Tenant paid the Landlord a security deposit of \$317.50 on August 15, 2005.

On March 3, 2010, the Tenant served the Landlord written notice she was vacating the rental unit on April 1, 2010.

The Landlord wrote to the Tenant immediately and explained that her notice to end the tenancy did not comply with the Act or the tenancy agreement. The Landlord explained they would try to re-rent the unit for April 1, or 15<sup>th</sup>, however, if the unit went un-rented that the Tenant would have to pay for the full amount of rent.

The Agent for the Landlord testified that the Tenant vacated the rental unit on March 31, 2010, and the parties performed an outgoing condition inspection report on April 8, 2010.

The Tenant reversed a payment to the Landlord for the April rent and the Landlord incurred a NSF fee from the banking institution.

The Landlord was not able to re-rent the unit until May of 2010.

### Analysis

Based on the above, the uncontradicted testimony and evidence, and on a balance of probabilities, I find that the Tenant breached the Act and tenancy agreement by ending the tenancy contrary to the Act and Tenancy Agreement.

If the Tenant wanted to end the tenancy on March 31, 2010, section 45 of the Act and the tenancy agreement required that Tenant must have served her notice on the Landlord no later than February 28, 2010. The Tenant failed to do this.

The Landlord mitigated the loss, as required by the Act, and had new tenants move into the rental unit.

Pursuant to section 67 of the Act, I find the Landlord is entitled to \$727.00 for one month of lost rent due to the Tenant's breach, \$25.00 for the NSF fee in accordance with paragraph 4(6) of the tenancy agreement and \$50.00 to recover the application fee for the filing of this claim.

Therefore, I find that the Landlord has established a total monetary claim of **\$802.00**.

I allow the Landlord to keep the security deposit and interest in the amount of **\$328.75** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$473.25**. This order may be filed in the Provincial Court (Small Claims) and enforced 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 24, 2010.

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Dispute Resolution Officer