



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes:

MNR, MNSD, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Respondent via registered mail at the service address noted on the Application, on May 10, 2010. The Agent for the Landlord cited a Canada Post tracking number to corroborate this statement. The Witness for the Landlord stated that she was with the Agent for the Landlord when this package was mailed to the Respondent. In the absence of evidence to the contrary, I accept that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Respondent, via registered mail, at the service address noted on the Application, on May 10, 2010.

The Agent for the Landlord stated that she believes the Respondent resided at the service address in March of 2010 but she has no evidence to show that the Respondent still resides at that address. During the hearing the Agent for the Landlord directed another agent for the Landlord has checked the Canada Post website and subsequently determined that the package was delivered to the Respondent, and that the Respondent's signature was electronically recorded by Canada Post. In the absence of evidence to the contrary, I find that the Respondent received the package that was mailed to her on May 10, 2010. On this basis, I find that the Landlord's Application for Dispute Resolution and the Notice of Hearing were sufficiently served for the purposes of this *Act*.

The hearing proceeded in the absence of the Respondent.

Issue(s) to be Decided

The issue to be decided is whether the Landlord is entitled to retain the security deposit paid by the Tenant in compensation for unpaid rent and the cost of filing this Application for Dispute Resolution, pursuant to sections 38 and 67 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Agent for the Landlord stated that on March 02, 2010 she entered into a verbal tenancy agreement with the Respondent in which the Respondent agreed to pay monthly rent of \$850.00 for a tenancy that would begin on April 01, 2010. The Agent for the Landlord stated that the Respondent paid a security deposit of \$425.00, in cash, on March 02, 2010.

The Witness for the Landlord stated that she was present when the Agent for the Landlord entered into the verbal tenancy agreement with the Respondent and that she witnessed the payment of the security deposit.

The Agent for the Landlord stated that on April 01, 2010 the Respondent verbally advised her that she would not be moving into the rental unit. She stated that the Respondent never provided her with a forwarding address.

The Landlord is only seeking to retain the security deposit that was paid by the Respondent. The Agent for the Landlord stated, therefore, that the Landlord is seeking \$375.00 in unpaid rent and \$50.00 for the cost of filing this Application for Dispute Resolution, for a total of \$425.00.

Analysis

The *Act* defines a “tenancy agreement” as an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a license to occupy a rental unit. Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that these parties entered into a verbal tenancy agreement on March 02, 2010, which was to begin on April 01, 2010 and for which the Tenant agreed to pay monthly rent of \$850.00.

In reaching this conclusion I was heavily influenced by the Agent for the Landlord’s testimony that a security deposit of \$425.00 was paid for this rental unit on March 02, 2010. I find this payment clearly expresses the Respondent’s intent to enter into a tenancy agreement.

Section 45 of the *Act* stipulates that a tenant may end a periodic tenancy by providing the landlord with written notice to end the tenancy on a date that is not earlier than one month after the date the Landlord received the notice and is the day before the date that

rent is due. As the Tenant entered into a verbal tenancy agreement with the Landlord, I find that she was obligated to end this tenancy in compliance with section 45 of the *Act*.

As the Respondent did not provide the Landlord with written notice to end the tenancy on a date that is not earlier than one month after the date the Landlord received the notice and is the day before the date that rent is due, I find that the Respondent was obligated to pay rent when it was due on April 01, 2010. As the Landlord is only seeking compensation, in the amount of \$375.00 for unpaid rent from April of 2010, I find that the Landlord is entitled to this amount.

I find that the Landlord's application has merit and I find that the Landlord is entitled to recover the filing fee from the Respondent for the cost of this Application for Dispute Resolution.

### Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$425.00, which is comprised of \$375.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

I hereby authorize the Landlord to retain the Respondent's security deposit in full satisfaction of this monetary claim.

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: September 17, 2010.

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Dispute Resolution Officer