



# 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 the landlord's application for a Monetary Order for unpaid rent and recovery of the filing fee. The landlord named two tenants in making this application however I was provided evidence that only one tenant was served with the hearing documents. The landlord provided a registered mail tracking number and copy of the registered mail envelope sent to that tenant at the rental unit address as evidence of service. The registered mail was returned as unclaimed. The landlord testified that the tenant was residing and continues to reside at the rental unit. I was satisfied that one tenant was served with notification of this hearing and I proceeded to hear from the landlord without the tenant present.

The application was amended to name only the tenant served. Accordingly, this decision and the Monetary Order that accompanies it name only the tenant served.

### Issues(s) to be Decided

Is the landlord entitled to a Monetary Order for unpaid rent for the month of April 2010?

### Background and Evidence

The landlord provided the following undisputed evidence. The tenancy commenced February 15, 2010 and the tenants were required to pay rent of \$1,350.00 on the 1<sup>st</sup> day of every month. The tenants had also paid a \$675.00 security deposit. On April 1, 2010 the landlord requested rent from the tenants and was provided a post dated cheque for

April 20, 2010. The landlord deposited the cheque but the tenant had placed a stop payment on it. The landlord approached the tenant about the cheque to which the tenant replied she did not have the money and would not be paying him.

On April 15, 2010 the property was sold and the purchaser was credited with the security deposit and the prorated rent for April 15 – 30, 2010 on the Statement of Adjustments.

As evidence for the hearing the landlord provided a copy of the cheque dated April 20, 2010, the tenancy agreement and the Statement of Adjustments.

### Analysis

Under the Act, the definition of landlord includes former landlord when the context requires this. I find the applicant meets the definition of landlord for purposes of this application.

Based upon the undisputed evidence presented to me I am satisfied that the landlord was entitled to receive rent from the tenants in the amount of \$1,350.00 for the month of April 2010. I am further satisfied that the tenants failed to pay rent to the landlord for the month of April 2010 and the landlord is entitled to a Monetary Order for unpaid rent for April 2010.

As the security deposit has been transferred to the current owner I find the landlord is not in possession of the security deposit and I do not offset it against the unpaid rent.

In light of the above findings, I award the landlord the filing fee paid for this application and provide the landlord with a Monetary Order in the total amount of \$1,400.00 to serve upon the tenant. The Monetary Order may be filed in Provincial Court (Small Claims) to enforce as an Order of that court.

Conclusion

The landlord was successful in this application and has been provided a Monetary Order in the amount \$1,400.00 to serve upon the tenant.

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