



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNR, MNSD, OPR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I note that the rental unit was vacated by the Tenant and the Landlord is no longer requesting an order of possession.

### Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an order for monetary relief?

### Background and Evidence

Based on the affirmed testimony of the Landlord, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent. The Tenant has not paid all the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

The Landlord seeks a monetary order for unpaid rent of \$1,035.00 for August, \$496.00 for cleaning and removal of items from the rental unit, \$9.73 for carry over costs, and the \$50.00 filing fee.

The Tenant acknowledged owing the Landlord \$1,035.00 for the balance due in August 2010 rent and the cleaning costs, but denies owing the \$9.73 in carry over costs.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Although the Landlord is entitled to an order of possession in these circumstances, the Tenant has vacated the rental unit and therefore, an order of possession is no longer required.

I find that the Tenant has failed to pay rent of \$1,035.00 under the Act and tenancy agreement and left the rental unit in a state that required cleaning.

I dismiss the claim of the Landlord for carry over costs. The Applicant Landlord in this matter had the obligation of proving the claims that have been made against the Respondent Tenant. The standard of proof required is the civil and administrative law standard, which is, claims must be proven on a balance of probabilities. I find the Landlord had insufficient evidence to prove the Tenant owed money for carry over costs.

Therefore, I find the Landlord has established a total monetary claim of **\$1,581.00**, comprised of \$1,035.00 for rent, \$496.00 for cleaning costs and the \$50.00 filing fee for the claim.

I order that the Landlord retain the deposit and interest of **\$516.99** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,064.01**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### Conclusion

The Tenant failed to pay rent and did not file to dispute the Notice to End Tenancy. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

The Landlord may keep the security deposit and interest in partial satisfaction of the claim and is granted a monetary order for the balance due of **\$1,064.01**.

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 24, 2010.

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Dispute Resolution Officer