



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order and an order of possession.

The hearing was conducted via teleconference and was attended by the landlord's agent only. The tenant's did not attend.

The landlord's agent testified at the outset of the hearing that the tenants had paid the rent in full on October 19, 2010 prior to being served the Notice of Hearing documents on October 21, 2010. The agent confirmed that they were no longer seeking an order of possession or a monetary order for rent but only a monetary order for recovery of the filing fee. The agent also noted she didn't think the tenants would be attending the hearing.

As the tenant's have paid the rent and the landlord notes they are not seeking an order of possession I accept the landlord's amendment to their application to deal only with the matter of the filing fee for this application.

### Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for all or part of the security deposit to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord submitted into evidence the following documents:

- A copy of a tenancy agreement signed by the parties on August 7, 2009 for a 1 year fixed term tenancy beginning on August 15, 2009 that converted to a month to month tenancy on September 1, 2010 for a monthly rent due on the 1<sup>st</sup> of the month and a security deposit of \$447.50 and pet damage deposit of \$100.00 were paid on August 7, 2009; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on October 1, 2010 with an effective dated of October 12, 2010 for rent that was overdue in the amount of \$915.00.

### Analysis

As the tenants failed to pay the rent within the 5 days required when a 10 Day Notice to End Tenancy is issued the landlord had no alternative but to file an Application for Dispute Resolution seeking a monetary order and an order of possession and despite the fact the tenants have paid the rent in full and the landlord's amendment to no longer seek an order of possession, I find the landlord is entitled to recover the filing fee for this hearing from the tenant.

### Conclusion

I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$50.00** comprised of the fee paid by the landlord for this application.

I order the landlord may deduct this amount from the security deposit and interest held in the amount of \$447.50 in satisfaction of this claim, leaving a balance of a security deposit of \$397.50.

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: November 17, 2010.

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Dispute Resolution Officer