



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

### **Dispute Codes:**

MNR, MNSD, MNDC, FF

### **Introduction**

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. A Monetary Order for unpaid rent / loss of revenue - Section 67;
2. An Order to retain the security / pet deposit - Section 38
3. An Order to recover the filing fee for this application - Section 72.

I accept the landlord's evidence that despite the tenant having been served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing.

The landlord was given full opportunity to be heard, to present evidence and to make submissions.

### **Issue(s) to be Decided**

Is the landlord entitled to the monetary amounts claimed?

### **Background and Evidence**

The undisputed testimony in this matter is as follows. The tenancy began on June 01, 2009 and ended September 30, 2010. Rent in the amount of \$1200 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord

collected a security deposit from the tenant in the amount of \$600 and a pet damage deposit in the amount of \$600. The landlord currently still holds \$1150 of those deposits. The tenant failed to pay 4 months of rent in the tenancy period of September 01, 2009 to September 30, 2010.

The landlord provided a copy of a decision of the Director dated September 17, 2010 in which the Dispute Resolution Officer made a finding that as of that date the tenant owed the landlord 4 months' rent (\$4800), and also ordered that the tenant was owed \$300 in compensation and under Section 72(2)(a) that the \$300 owed to the tenant be applied to the outstanding rent owed to the landlord, *with the result* that the landlord was owed the balance of \$4500 in rent arrears. The landlord also provided a copy of a decision of the Director dated July 02, 2010 in which the Dispute Resolution Officer ordered that the landlord could retain \$50 from the tenant's security deposit. The landlord also provided a move out inspection report in which the tenant and landlord agreed that the tenant was responsible for damages to the unit in the amount of \$200. Therefore the landlord is claiming to retain this amount.

The landlord also provided a copy of a Notice from the local municipal government dated in January 2011 advising that the rental unit's utility bill of \$300.32 was unpaid.

The landlord testified that to date the tenant has not paid any of the rental arrears of \$4500 owed to the landlord, or the outstanding utility charges of \$300.32.

### **Analysis**

Based on the landlord's testimony I find that the tenant has not paid any of the outstanding rent since September 17, 2010. I find that the landlord's evidence in respect to the unpaid rent establishes the tenant owes the rent by virtue that it is "Res Judicata" – meaning that the issue of the unpaid rent has already been determined in the appropriate forum. In this case the decision dated September 17, 2010 established that the tenant owed the landlord 4 months of rent, minus \$300, or a total of **\$4500**.

I further find that the landlord is owed arrears of utilities in the amount of **\$300.32**.

I find that the Act allows the landlord to retain from the security deposit an amount to which the tenant has agreed in writing the landlord is entitled. So as to perfect this matter I will include this amount of **\$200** in the monetary award calculations.

The landlord is also entitled to recovery of the **\$50** filing fee, for a total entitlement of **\$5050.32**. The security deposit will be off-set from the award made herein.

### ***Calculation for Monetary Order***

Rental Arrears	\$4500.00
Un[paid utilities	\$300.32
Agreed deduction from security deposit	\$200.00
Filing Fees for the cost of this application	50.00
Less Security Deposit to <i>date</i>	-1150.00
<b>Total Monetary Award to landlord</b>	<b>\$3900.32</b>

### **Conclusion**

**I order** that the landlord retain all deposits of \$1150 in partial satisfaction of the claim and I grant the landlord an order under Section 67 of the Act for the balance due of **\$3900.32**. If necessary, this order may be filed in the Small Claims Court 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*.