



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      MND, MNR, MNSD, FF

### Introduction

This conference call hearing was convened in response to the landlord's application for a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for damage to the unit and to keep the security deposit; and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. He testified that the tenant gave him her forwarding address by email. The landlord said that he served the Notice of a Dispute Resolution Hearing to the tenant by way of registered mail sent December 16<sup>th</sup>, 2011 at the address provided by the tenant. The landlord said that the package was returned to him as unclaimed, and that the tenant did not return any of his emails after that time. The tenant did not participate and the hearing proceeded in the tenant's absence.

### Issue(s) to be Decided

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to recover the filing fee?

### Background and Evidence

There is no documentary evidence from the landlord before me.

The landlord testified that the tenancy fixed term tenancy started February 1<sup>st</sup>, 2009 and ended December 31<sup>st</sup>, 2010. The rent was \$1400.00, payable on the first of the month and the tenant paid a security deposit of \$700.00.

The landlord stated that the tenant broke the lease by moving out late November 2010 without providing any notice. He said that the tenant had not paid rent since August 2010 and kept promising the landlord that she would be moving out. He said that she eventually abandoned the unit and left several items behind.

The landlord made a claim of \$5600.00 for unpaid rent from August to November 2010. He also stated that the repairs, cleaning and garbage disposal totalled an additional \$4530.00 for a claim totalling \$10,130.00.

### Analysis

I accept the landlord's undisputed testimony that he served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing.

Before a Dispute Resolution Officer can make an order under section 67 of the *Residential Tenancy Act*, the applicant must first prove the existence of damage or loss; that it stemmed from the other party's violation of the Act, regulation, or tenancy agreement; that the monetary amount of the claim was verified; and that the applicant took steps to mitigate or minimize the loss or damage. When these requirements are not satisfied the burden of proof is not met. In this matter that burden was on the landlord to prove his claim against the tenant.

I accept the landlord's testimony that the tenant did not pay rent for 4 months and I find that the landlord is entitled to recover the loss associated with unpaid rent.

Concerning the claim for damages, the landlord did not provide any evidence to substantiate his claim. Absent more objective evidence such as receipts, photographs, or condition inspection reports I cannot make a decision regarding this portion of his monetary claim.

### Conclusion

The landlord established a claim of \$5600.00. Since he was successful, he is entitled to recover the filing fee for a claim totalling \$5650.00. I authorize the landlord to keep the tenant's \$700.00 security deposit and pursuant to Section 67 of the Act, I grant the landlord a monetary order for the balance of \$4950.00.

This Order may be registered in the Small Claims Court and enforced as an order of that Court.

The landlord's application for damages is dismissed with leave to reapply.

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: April 13, 2011.

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Residential Tenancy Branch