



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNDC, MNR, MNSD

### 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/ damage - Section 67;
2. An Order to retain the security / pet deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of 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?

Is the Landlord entitled to recovery of the filing fee?

### Background and Evidence

The one year tenancy began on January 1, 2011. The Tenant signed a tenancy agreement and a rental incentive agreement in relation to the tenancy. Rent in the amount of \$760.00 was payable in advance on the first day of each month. The rent was reduced by \$127.00 as incentive for the months of January and February. At the outset of the tenancy, the Landlord transferred a security deposit from the Tenant from a previous tenancy in the amount of \$380.00 that was paid on June 4, 2010.

In mid February, the Tenant orally informed the Landlord that she would be moving out of the unit on February 28, 2011 and the Tenant moved out on that date. The Landlord did not receive a written notice from the Tenant in relation to the Tenant's move-out. The Tenant completed and signed as accurate a move-out inspection with the Landlord indicating cleaning required with charges in the amount of \$80.00. The quantum of the Landlord's claim is \$1,872.50 for February 2011 rental arrears, a lease breaking fee, cleaning costs, return of the concession amounts made to the rent for January and February 2011 and loss of revenue for March 2011.

### Analysis

Where a tenant wishes to end a fixed term tenancy, the Act provides as follows:

- 45** (2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that
- (a) is not earlier than one month after the date the landlord receives the notice,
  - (b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy; and
  - (c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Further and in order to be effective, Section 52 of the Act requires that a notice from a tenant must be in writing, must be signed and dated, must give the address of the rental unit and must state the effective date of the notice.

Given the undisputed evidence of the Landlord, I find that the Tenant failed to pay rental arrears for February 2011. I further find that the Tenant failed to provide effective notice to the Landlord. Accordingly, I find that the Landlord has incurred rental arrears and lost revenue for March 2011. Given the signed lease terms and move-out charge analysis, I find that the Landlord has substantiated the claim for the lease breaking fee, maintenance charges, and concessions owed. The Landlord has therefore established

a total monetary claim of \$1,872.50. As the Landlord has been successful with its claim, I find that the Landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$1,922.50**. The **security deposit** will be off-set from the award made herein.

***Calculation for Monetary Order***

Rental Arrears	\$555.50
Loss of rent revenue	633.00
Maintenance charges	80.00
Lease breaking fee	350.00
Concessions owed	254.00
Filing Fees for the cost of this application	50.00
Less Security Deposit and interest <i>to date</i>	-380.00
<b>Total Monetary Award</b>	<b>\$1,542.50</b>

Conclusion

**I order** that the Landlord retain the **deposit** and interest of \$380.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,542.50**. 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*.

Dated: June 21, 2011.

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Residential Tenancy Branch