



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNR, MNSD, OPR, 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. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent and utilities/ loss of revenue - Section 67;
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. At the onset of the Hearing, the Landlord indicated that as the Tenant had vacated the unit, an Order of Possession was no longer requested.

### 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 following is undisputed evidence: The tenancy began on December 1, 2008 and ended on May 24, 2011, following the Landlord’s service of a 10 Day Notice to End Tenancy for unpaid rent on May 3, 2011 with a move-out date of May 16, 2011. Rent in the amount of \$375.00 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 \$187.50. The Tenant also did not pay outstanding utilities in the amount of \$66.00.

The Landlord claims arrears for April 2011 rent in the amount of \$190.00, unpaid rent for May 2011 in the amount of \$375.00, unpaid utilities in the amount of \$66.00 and lost rental income for June 2011 in the amount of \$375.00.

### Analysis

Section 44 of the Act sets out when a tenancy will end. Where a Landlord has elected to end a tenancy because of non-payment of rent, a tenant is not liable to pay rent after the tenancy agreement has ended pursuant to section 44 unless the tenant remains in possession of the premises. In that case, the tenant will be liable to pay occupation rent on a per diem basis until the landlord recovers possession of the premises.

The Landlord in this case has elected to end the tenancy agreement and the Tenant moved out on May 24, 2011. As such, the Landlord has substantiated a loss for April rental arrears and May rent in the amount of \$565.00 ( $190+375=565.00$ ). Given the evidence of unpaid utilities, the Landlord has also established a loss of \$66.00 for a combined entitlement of \$631.00 ( $565.00 + 66 = 631.00$ ) for rent and utilities owing. The Landlord is entitled to recovery of the \$50 filing fee, for a total entitlement of **\$681.00**. The **security deposit** will be off-set from the award made herein.

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

Rental Arrears	\$565.00
Utility arrears	66.00
Filing Fees for the cost of this application	50.00
Less Security Deposit and interest <i>to date</i>	-187.74
<b>Monetary Award</b>	<b>\$493.26</b>

### Conclusion

**I order** that the Landlord retain the **deposit** and interest of \$187.74 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$493.26**. 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 15, 2011.

---

Residential Tenancy Branch