



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

For the Tenant: CNC, CNR, FF

For the Landlord: OPC, OPR, MNSD, MNR, MNDC, FF

### **Introduction**

This hearing dealt with Cross Applications for Dispute Resolution.

The tenant applied to cancel the Notices to End the Tenancy and to recover the filing fee.

The Landlord applied for a monetary order for unpaid rent, for money owed or compensation for damage or loss, authority to retain the security deposit, an order of possession and to recover the filing fee.

The parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in documentary form, and to make submissions to me.

At the outset, I was advised that the tenant had vacated the rental unit. As a result, it was no longer necessary to consider the tenant's application to cancel the Notices.

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

Has the tenant breached the *Residential Tenancy Act* (the "Act") or tenancy agreement, entitling the Landlord to an order for monetary relief?

### **Background and Evidence**

The tenancy began on August 25, 2010, on a one year fixed term basis, rent is \$1,350.00 per month, and the tenant paid a security deposit of \$675.00 at the beginning of the tenancy.

As it was no longer necessary to consider the tenant's application or the portion of the landlord's application requesting an order of possession, the landlord proceeded first in the hearing to explain his request for a monetary order for \$2,350.00.

The landlord explained that although he has vacated the rental unit in July, the tenant did not pay rent for the month of July, and owes the amount of \$1,350.00 in lost revenue for that month.

As to the amount of \$1,000.00, the landlord explained that this amount is owed by the tenant due to a clause in the tenancy agreement which states that the tenant will pay an additional \$100.00 for each additional occupant in the rental unit. The landlord submitted that the tenant has had additional occupants since November 2010.

The landlord admitted that he had not noticed that clause himself until preparing to file for dispute resolution.

In response, the tenant confirmed that he had not paid rent for July, although he had payment ready for the landlord. The tenant submitted the landlord failed to make arrangements to pick up the rent cheque.

The tenant stated that the landlord has consented to the tenant having an extra occupant in the rental unit and that he, the tenant, was unaware the landlord would charge an additional \$100.00 per month.

After some discussion, the tenant agreed that he owed \$1,350.00 for the rent for July and the landlord agreed to waive his request for \$1,000.00.

### Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

### Tenants' Application

As it was no longer necessary to consider the merits of the tenant's application requesting cancellation of the Notices to End the Tenancy, I dismiss his application.

As I have dismissed the tenant's application, I decline to award him the filing fee.

### Landlord's Application

Through the confirmation of the tenant, the landlord has established a **monetary claim** for unpaid rent for July, 2011, in the amount of **\$1,350.00**.

Through the confirmation of the landlord, he has waived his request for \$1,000.00 for additional occupants in the rental unit.

As I find the landlord's claim had merit, I find the landlord is entitled to recover the filing fee.

I find the landlord has established a total monetary claim in the amount of \$1,400.00, consisting of unpaid rent for July 2011, in the amount of \$1,350.00, and the filing fee of \$50.00.

As I informed the parties in the hearing, I allow the landlord to retain the security deposit of \$675.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$725.00**.

I am enclosing a monetary order for \$725.00 with the landlord's Decision. This order is a **legally binding, final order**, and it may be filed in the Provincial Court (Small Claims) should the tenant fail to comply with this monetary order.

#### Conclusion

The tenant's application is dismissed.

The landlord is granted a monetary order in the amount of **\$725.00**.

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: August 04, 2011.

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Residential Tenancy Branch