



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, 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; and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. He testified that he served the Notice of a Dispute Resolution Hearing to the tenant by way of registered mail sent on May 26<sup>th</sup>, 2011, and provided a Canada Post tracking number. 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 recover the filing fee?

### Background and Evidence

The rental unit consists of a basement suite in a duplex. The landlord testified that pursuant to a written agreement, the month to month tenancy started on January 1<sup>st</sup>, 2011. The rent was \$920.00 and the tenant paid a security deposit of \$460.00. The landlord said that a condition inspection report was completed with the tenant at the start of the tenancy, but that the tenant declined to do one at the end. He stated that he

served the tenant with a 1 Month Notice to End Tenancy on April 9<sup>th</sup>, 2011 with an effective date of May 9<sup>th</sup>, and that the tenant moved out on May 2<sup>nd</sup>. He said that the tenant told him that she would not pay rent beyond May 2<sup>nd</sup>, and that she refused to accept responsibility for the damages. The landlord said that he did not return the tenant's security deposit.

In his documentary evidence, the landlord provided a handwritten account of his monetary claim of \$377.44 for damages to the garage door frame and an interior wall; and of \$920.00 for May 2011 rent for a claim totalling \$1297.44.

### Analysis

There was no other documentary evidence before me from the landlord. Section 23(3), (4), and (5) of the Act places the onus to complete condition inspection reports on the landlord. The landlord's application was not supported by these reports, nor did he provide photographs, receipts or invoices allowing me to substantiate the claim. Based on the undisputed submissions, I accept the landlord's testimony that he conducted some repairs; however, in the absence of receipts I award the landlord a nominal award of \$200.00 for damages.

Concerning rent for May 2011, Section 53(2) of the Act states that if the effective date in the notice to end tenancy is earlier than the earliest date permitted under the applicable section, the effective date is deemed to be the earliest date that complies with the section. When a landlord issues a tenant with a 1 Month to End Tenancy on April 9<sup>th</sup>, 2011, under Section 55(3) the effective date is deemed to be 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; therefore the effective date of the end of the tenancy in this matter should have been May 31<sup>st</sup>, 2011.

The tenant in this matter did not dispute the notice, but rather complied and left on May 2<sup>nd</sup>, 2011. In the interest of administrative fairness, I do not find that it would be

reasonable that the tenant should be penalized, or that the landlord should gain a pecuniary benefit from his own mistake at the tenant's expense. Therefore I consider that the landlord ended the tenancy on May 9<sup>th</sup>, 2011, and that he is entitled to rental income up to that date.

Based on a monthly rent of \$920.00, the *per diem* rate on a 31 day month is \$29.68. I find that the landlord is entitled to 7 days rent for the sum \$207.76.

### Conclusion

The landlord established a claim of \$407.76. Since his application had merit, I grant the landlord recovery of the \$50.00 filing fee for a claim totalling 457.76. Since the security deposit is \$460.00, the landlord owes the tenant \$2.24.

Under the *de-minimus* principle I decline to make an order for that amount.

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: September 02, 2011.

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Residential Tenancy Branch