



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPE, MNR

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent only. The tenant did not attend.

The landlord's agent testified the tenant was served with notice of this hearing by posting it on the door of the rental unit and that the evidence and amended Application, that included a new financial claim, was served via registered mail.

I accept the tenant was sufficiently served for the purposes of this hearing.

At the outset of the hearing the landlord's agent testified the tenant had vacated the rental unit as of today and as such no longer requires an order of possession. I amend the landlord's Application to exclude the matter of possession.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent, pursuant to Sections 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord testified the tenancy began when the tenant moved into the rental unit on July 22, 2011. The intention was that the tenant would be working for the landlord as an assistant manager for the residential property and was to begin on August 1, 2011 and that rent had been reduced to \$425.00 per month from the market value of \$1,125.00, plus parking of \$120.28 per month.

During the period of July 22, 2011 to August 1, 2011 the employment contract ended and the tenant remained in the rental unit. On August 2, 2011 the landlord agreed to

allow the tenant to pay \$10.00 rent for the month of August, 2011, which the tenant did not pay, confirmed in an email dated August 22, 2011 submitted into evidence. There is no mention in the email the landlord waived the parking fees for August, 2011.

The landlord issued the tenant a 1 Month Notice to End Tenancy with an effective date of August 31, 2011. The agent testified the tenant did not move out until today's date. The agent also testified the tenant would not allow the landlord to enter the rental unit for showings to potential tenants and was therefore not able to rent the unit to a new tenant.

The landlord seeks compensation for parking for the two months of August and September 2011, rent in the amount of \$10.00 for August 2011 and \$1,125.00 for the months of September and October 2011.

### Analysis

I accept that once the tenant's employment was no longer secured the landlord had the right to charge the tenant market rate for the rent as outlined in the employment agreement signed by both parties.

I also accept that the landlord agreed to charge the tenant only \$10.00 for the month of August 2011 and that the tenant failed to pay this amount. I accept that parking was not included in this agreement and the tenant is responsible for parking charges for the months of August and September.

I find that because the tenant did not dispute the landlord's Notice to End Tenancy for Cause he is conclusively presumed to have accepted the tenancy ended on the effective date of the notice and as such the tenant was overholding for the entire month of September. As a result, I find the tenant owes the landlord rent for this period of time.

Despite the agent's testimony that the landlord has lost rent for the month of October 2011, I find that I can make no ruling on this matter at this time as rent for October is not yet due. In addition, now that the tenant has vacated the rental unit the landlord has the opportunity to mitigate some of this loss should the unit be rented for any part of the month of October 2011. As such, I find this part of the Application to premature and I dismiss it with leave to reapply.

### Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$1,375.56** comprised of \$1,135.00 rent owed; and \$240.56 parking.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: September 30, 2011.

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Residential Tenancy Branch