



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties.

The Landlord has applied for orders for unpaid rent, to keep all or part of the security deposit, for money owed or compensation under the Act and tenancy agreement, and to recover the filing fee for the Application.

The Tenant has applied for the return of her security deposit.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

Is the Landlord entitled to the monetary orders sought?

Is the Tenant entitled to the return of her security deposit?

### Background and Evidence

This tenancy began on November 1, 2003, with the parties entering into a written tenancy agreement. The Tenant paid the Landlord a security deposit of \$430.00 on November 1, 2003.

The rent payment for the rental unit is subsidized. The Agent for the Landlord testified that the Tenant had been notified by a letter sent in April of 2011 that her rent for June

of 2011, after her subsidy, was to be \$861.00. The Tenant testified that the last month she paid rent, in May of 2011, the rent was \$801.00.

On May 2, 2011, the Tenant sent the Landlord an email with a notice to end tenancy for the last day of May 2011.

On May 3, 2011, the Landlord sent the Tenant a letter informing her she would be responsible for the full monthly rent if the Landlord was unable to find a renter for the following month. In the letter the Landlord refers to May by mistake, instead of June. The Agent testified this was a typographical error. The Agent testified she told the Tenant about owing for the following month of June in a conversation they had.

During the outgoing condition inspection report the Tenant agreed to pay \$100.00 for the re-painting of a wall which she had painted a different colour during the tenancy.

The Landlord is claiming \$861.00 for loss of rent for June 2011 and \$100.00 for re-painting the rental unit.

The Tenant testified she did not think she had to pay for the late notice to end, as she gave the Landlord the notice on the first business day following the first of the month, since the first day of May 2011, fell on a Sunday. The Tenant also testified that the Landlord is planning on re-developing the rental units. She testified she left the rental unit because it was mouldy.

I note the parties had been to a prior hearing, in which the Tenant was awarded a monetary order due to work being done in the rental unit.

### Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find the Tenant has breached the Act by failing to give the Landlord the required Notice to End Tenancy.

Under section 45 of the Act if the Tenant wanted to end the tenancy on May 31, 2011, she was required to give her notice no later than April 30, 2011. Furthermore, the Act does not allow service of any documents, including a Notice to End Tenancy, by email.

Having found the Tenant has breached the Act, I dismiss her Application without leave to reapply.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find the Tenant's breach of the Act has caused the Landlord to suffer a loss of rent for one month.

I find that the Landlord has established a total monetary claim of **\$1,011.00**, comprised of the \$861.00, which is the rent the Tenant would have been required to pay for June 2011, the \$100.00 the Tenant agreed to pay and the \$50.00 fee paid for this application.

I order that the Landlord may retain the deposit and interest of **\$445.22** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$565.78**.

This order must be served on the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 09, 2011.

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Residential Tenancy Branch