



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement.

Service of the hearing documents, by the Tenant to the Landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on July 06, 2011. Mail receipt numbers were provided in the Tenant's evidence. The Landlord was deemed to be served the hearing documents on July 11, 2011, the fifth day after they were mailed as per section 90(a) of the *Act*. Based on the written submissions of the Tenant I find the Landlord has been sufficiently served notice of this proceeding.

The Tenant appeared at the teleconference hearing, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form. No one appeared on behalf of the Landlord despite him being served notice of this hearing in accordance with the *Act*.

### Issue(s) to be Decided

1. Was the Tenant summarily evicted by the Landlord in breach of the *Residential Tenancy Act*?
2. If so, has the Landlord retained rent for the period the Tenant did not occupy the rental unit?

### Background and Evidence

The Tenant affirmed that he had entered into a verbal tenancy agreement that began in approximately March 2010. The Landlord had completed and signed the intent to rent form to have rent payments issued in the Landlord's name from the Ministry of Social Development Income Assistance (the Ministry). Rent was payable on the first of each month.

The Tenant advised that approximately the beginning of May 2011 the Landlord began asking for a security deposit from the Tenant and had contacted the Ministry to request payment be issued. The Landlord had been asking the Tenant to go pick up the security deposit payment and when he failed to do so the Landlord became very upset.

The Tenant stated that the rental unit was a house with six bedrooms that were each rented out to separate tenants who then shared the common spaces of the two bathrooms, kitchen and living areas. There had been police presence at the rental unit a few times before mid June 2011. Then on June 12, 2011 the Tenant was at a nearby park when the Landlord approached him and told him he had been evicted and to give the Landlord the keys. The Tenant advised he had heard there was police attendance at the unit that day but that he does not know what happened as he was not there. The Landlord had kicked him out before but had always let him back in. This time he said he knew he had to find a new place to live. The Landlord kept the payment from the Ministry for the full month of June's rent even though the Tenant had been evicted June 12, 2011 for no reason. The Tenant is seeking the return of \$325.00 which represents the 18 days in June he was not residing at the rental unit.

### Analysis

On preponderance of the undisputed testimony of the Tenant, and on the balance of probabilities, I have reached a decision. I accept the Tenant's testimony in respect to being summarily evicted by the Landlord without proper notice in breach of the *Residential Tenancy Act*.

The *Residential Tenancy Policy Guideline # 16* provides that where a landlord and tenant enter into a tenancy agreement, each is expected to perform his/her part of the bargain with the other party, regardless of the circumstances. A tenant is expected to pay rent and a landlord is expected to provide the premises agreed to. If the Tenant is deprived of the use of the premises the tenant may be entitled to damages, even where there has been no negligence on the part of the landlord.

Based on the aforementioned I find in favour of the Tenant's application and award a monetary amount of **\$295.00** (\$500.00 x 12 mo divide by 365 days x 18 days) for the period of June 13, 2011 to June 30, 2011 where rent was paid and the Tenant was deprived of the use of the premises.

Conclusion

The Tenant's decision will be accompanied by a monetary order in the amount of **\$295.89**. This Order is legally binding and must be served upon the Landlord.

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: October 06, 2011.

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Residential Tenancy Branch