



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      Landlord: MNR, MNSD, FF  
Tenant: MNSD

### Introduction

This hearing dealt with cross Applications for Dispute Resolution. Both parties sought a monetary order.

The hearing was conducted via teleconference and was attended by the landlord only.

As this hearing dealt with cross Applications, I am satisfied the tenant was sufficiently served notice of this hearing.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 16, 38, 45, 67, and 72 of the *Residential Tenancy Act (Act)*.

It must also be decided if the tenant is entitled to a monetary order for all or part of the security deposit, pursuant to Section 38 of the *Act*.

### Background and Evidence

The landlord submitted into evidence a copy of a tenancy agreement signed by the parties on April 15, 2011 for a 1 year fixed term tenancy beginning on May 1, 2011 for the monthly rent of \$1,100.00 due on the 1<sup>st</sup> of each month and that a security deposit of \$550.00 was paid.

The landlord submitted into evidence an accounting of the funds received from the tenant in various payments as follows: \$200.00 cash; \$137.50 cheque from the Ministry of Social Development (MSD); \$275.00 cheque from the MSD. The landlord was advised by the tenant's worker that \$212.50 of the last cheque from the MSD was to be used for security deposit and the balance of \$62.50 was to be considered partial rent for May 2011.

The landlord testified the tenant called him on the phone towards the end of April 2011 to say that he would not be moving in to the rental unit. The landlord advertised the

rental unit in the local paper as soon as possible, at a cost of \$33.16 (invoice submitted into evidence) and obtained renters to move in for June 1, 2011.

### Analysis

As the tenant failed to attend the hearing, I dismiss the tenant's Application in its entirety without leave to reapply.

Section 16 of the *Act* states the rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit.

Section 45 stipulates that a tenant may end a fixed term tenancy by giving notice to end the tenancy effective on a date that, among other things, is not earlier than the date specified in the tenancy agreement as the end of the tenancy.

As such, I find the tenant is responsible for rent at this rental unit until May 31, 2012, however, since the landlord was able to re-rent the unit effective June 1, 2011, I find the tenant is only responsible for the payment of rent for the month of May 2011.

I also find that as a result of the tenant breaching the fixed term tenancy the landlord incurred additional costs to re-rent the unit out for advertising as support by the invoice submitted into evidence.

### Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,087.50** comprised of \$1,037.50 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$550.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$537.50**. 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: October 17, 2011.

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Residential Tenancy Branch