



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, FF

### Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery mail on July 7, 2011. Based on the evidence of the Landlord's agent, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

### Issues(s) to be Decided

1. Is there unpaid rent and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?

### Background and Evidence

This tenancy was to start on July 1, 2011 as a 12 month fixed term tenancy. Rent was \$1,600.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant was to pay a security deposit of \$800.00 which was not paid.

The Landlord said the Tenant did not move into the rental unit as agreed and as a result she has made an application for loss rental income from July 1, 2011 to July 15, 2011 in the amount of \$800.00 and the filing fee for this proceeding in the amount of \$50.00.

The Tenant said there were three issues about the tenancy that she did not agree with. The first issue was the Landlord storing her things in the basement of the rental unit, secondly whether smoking would be an issue with the strata council and neighbours and thirdly if the Tenant could store their boat at the unit. As a result the Tenant said they ended the tenancy prior to moving in with a Mutual Agreement to End Tenancy signed by both the Landlord and her dated June 19, 2011. The Mutual Agreement to End Tenancy was submitted into evidence.

The Landlord said she did sign the Mutual Agreement to End Tenancy on June 19, 2011, but she believed it was just to get her keys and parking fobs returned.

As well since the Landlord was unsuccessful in this matter I order the Landlord to bear the cost of the filing fee for this proceeding of \$50.00 which she has already paid.

### Analysis

Section 44 (c) of the Act says a tenancy ends if the landlord and the tenant agree in writing to end the tenancy.

It is apparent from the testimony given by both the Tenant and the Landlord a Mutual Agreement to End the Tenancy was signed on June 19, 2011. As a result the tenancy was ended as of June 19, 2011. This testimony is supported by the signed Mutual Agreement to End Tenancy form submitted into evidence. Consequently I find the Landlord's application has not established grounds to prove the Tenant has any unpaid rent as the tenancy ended before it began. I dismiss the Landlord's application without leave to reapply.

### Conclusion

The Landlord's application is dismissed without leave to reapply.

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*.

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Residential Tenancy Branch