



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **Decision**

### **Dispute Codes:**

MNR, MNSD, FF

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for loss of rent and to keep the tenant's security deposit in partial satisfaction of the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on October 5, 2011, the tenant did not appear.

### **Issue(s) to be Decided**

The issue to be determined, based on the testimony and evidence, is whether or not the landlord is entitled to monetary compensation for rental arrears owed.

### **Background and Evidence**

The fixed term tenancy began on September 16, 2010 and ended September 30, 2011. The rent was \$900.00 per month and a security deposit of \$450.00 was paid.

The landlord testified that the tenant suddenly vacated without providing proper written notice of one month as required under the Act. The landlord stated that the tenant left on September 25, 2011 and the landlord was not able to get the unit re-rented for the month of October, incurring a loss of \$900.00. The landlord testified that, when he spoke to the tenant about the violation of the Act, the tenant claimed that verbal notice to terminate the tenancy was given in May 2011.

### **Analysis**

It is important to note that in a claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof and the evidence furnished by the applicant must satisfy each component of the test below:

#### **Test For Damage and Loss Claims**

1. Proof that the damage or loss exists,

2. Proof that this damage or loss happened solely because of the actions or neglect of the Respondent in violation of the Act or agreement
3. Verification of the actual amount required to compensate for the claimed loss or to rectify the damage.
4. Proof that the claimant followed section 7(2) of the Act by taking reasonable steps to mitigate or minimize the loss or damage

In this instance, the burden of proof is on the landlord, to prove the existence and value of the damage/loss stemming directly from a violation of the agreement or a contravention of the Act by the respondent and verify that a reasonable attempt was made to mitigate the damage or losses incurred

I find that the tenant did not comply with section 45 (1) that states a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice,

(b) is the day before the day in the month, on which the tenancy is based, that rent is payable under the tenancy agreement.

Given the above, I find that the loss suffered by the landlord was caused by the tenant and the landlord is entitled to be compensated in the amount of \$950.00 comprised of \$900.00 for loss of rent and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the tenant's \$450.00 security deposit in partial satisfaction of the claim leaving an outstanding balance of \$500.00.

### **Conclusion**

I hereby grant the Landlord an order under section 67 for \$500.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and 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: December 19, 2011.

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Residential Tenancy Branch