



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNR, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The parties agreed that the tenancy began in February 2011 and ended in September 2011. They further agreed that there was no written tenancy agreement, but that the terms verbally agreed upon were that the tenants were responsible to pay \$3,200.00 per month in rent. They agreed that the tenants did not pay rent in the months of July and August and that in September, they gave the landlord a cheque for \$9,600.00 which was post-dated for the end of September.

The landlord served the tenants with a notice to end tenancy for unpaid rent. The tenants put a stop-payment on the cheque and vacated the rental unit.

The tenants claimed that the landlord had no right to end the tenancy because he had a cheque in his hands at the time he served the notice. They further claimed that the landlord had misled them into believing the rental unit would not be advertised for sale during the tenancy when in fact it was placed on the market shortly after the tenancy began.

### Analysis

Despite there being no written tenancy agreement, both parties were well aware of the basic terms of the contract, one of which was the tenants' obligation to pay \$3,200.00 each month

in rent. Although the tenants gave the landlord a cheque to cover rent for the months of July – September inclusive, that cheque was not negotiable until the end of September, which meant that the rent was not paid when it should have been. The landlord was well within his rights to serve the tenants with a notice to end tenancy. It is irrelevant whether the landlord had said he would not sell the rental unit as section 26 of the Act requires tenants to pay rent regardless of whether the landlord has complied with his obligations under the tenancy agreement.

I find that the tenants were obligated to pay \$3,200.00 in rent on July 1, 2011, a further \$3,200.00 on August 1, 2011 and a further \$3,200.00 on September 1, 2011. I find that the tenants did not meet their contractual obligation and that the landlord is entitled to recover these arrears. I award the landlord \$9,700.00 which represents the rental arrears as well as the \$100.00 filing fee he paid to bring his application which fee I find he is also entitled to recover. I order the landlord to retain the \$1,600.00 security deposit in partial satisfaction of the claim and I grant him a monetary order under section 67 for the balance of \$8,100.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlord is granted a monetary order for \$8,100.00 and will retain the security deposit.

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: February 14, 2012

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Residential Tenancy Branch