



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

*OPR, OPC, MNR, MNSD, FF*

### **Introduction**

This hearing dealt with applications by the landlord and the tenant pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and a monetary order for unpaid rent, and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of his monetary claim. The tenant applied to cancel the notice to end tenancy.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

At the start of the hearing, the landlord testified that the tenant had moved out on March 15, 2012. Since the tenant has moved out, the landlord no longer requires an order of possession and the tenant's application is moot. Therefore, this hearing only dealt with the monetary claim of the landlord.

### **Issues to be decided**

Is the landlord entitled to a monetary order to recover unpaid rent and the filing fee? Is the landlord entitled to retain the security deposit?

### **Background and Evidence**

The landlord testified that the tenancy started on April 30, 2011 and ended on March 15, 2012. The monthly rent was \$865.00 due on the first of the month. Prior to moving in, the tenant paid a total of \$865.00 towards pet and security deposits.

The tenant failed to pay rent on March 01, 2012 and on March 02, 2012 the landlord served the tenant with a ten day notice to end tenancy for non payment of rent.

The tenant stated that his rent for March was paid directly to the landlord by Social Services but did not file any evidence to support his testimony. The landlord maintained that the tenant did not pay rent for March 2012.

### **Analysis**

As explained to the parties during the hearing, the onus or burden of proof is on the party making a claim to prove the claim. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

In this case the tenant claimed to have paid rent for March while the landlord denied having received rent for March. In the absence of additional evidence to support the tenant's claim of having paid rent, I find on a balance of probabilities that the tenant did not pay rent for March. Accordingly the tenant owes the landlord \$865.00.

Since the landlord has proven his case, he is also entitled to the filing fee of \$50.00 for a total entitlement of \$915.00. The landlord agreed to accept the security and pet deposits in full and final settlement of this claim.

### **Conclusion**

I order that the landlord retain the security deposit of \$432.50 plus the pet deposit of \$432.50 in full settlement of his claim.

The tenant's application is dismissed in its entirety.

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: March 22, 2012.

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Residential Tenancy Branch