



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

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

The landlord testified the female tenant was served with the notice of hearing documents and this Application for Dispute Resolution for both tenants, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on May 3, 2012. Section 89 requires that each party be served individually.

Based on the testimony of the landlord, I find that the female tenant has been sufficiently served with the documents pursuant to the *Act*. However, I find the male tenant was not served in accordance with Section 89 and I accept the landlord's request to amend his Application to name only the female tenant as a respondent.

At the outset of the hearing the landlord confirmed the tenants are no longer living in the dispute address and there is no longer a need for an order of possession. I accept the landlord's request to amend his Application to exclude the matter of possession.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for damage to the rental unit; 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 38, 46, 55, 67, and 72 of the *Act*.

### Background and Evidence

The landlord provided into evidence a copy of a tenancy agreement signed by the parties on June 8, 2011 for a month to month tenancy beginning on June 10, 2011 for a monthly rent of \$750.00 due on the 1<sup>st</sup> of each month with a security deposit of \$375.00 paid. The landlord testified the parties had verbally agreed for an additional charge of \$10.00 per month for services provided.

The landlord also provided a copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlord on April 4, 2012 with an effective date of April 15, 2012 due to the

tenants' failure to pay rent of \$760.00 due on April 1, 2012. The landlord submits he posted this notice to the door of the rental unit on April 4, 2012 at 9:00 p.m. and that this service was witnessed by a third party.

The landlord submits that the tenants had given notice of their intention to end the tenancy effective April 15, 2012 and that he informed the tenants that if he could not find new tenants to take over the rental unit on April 15, 2012 the tenants would be responsible for payment for rent for the full month of April 2012.

The landlord goes on to say he did not find a tenant for April 15, 2012 and the tenants refused to pay any rent for. He states the tenants vacated the rental unit some time after April 4, 2012 without informing him they were leaving. The landlord entered the rental unit on April 15, 2012 and confirmed the tenants had vacated the unit.

The landlord submitted into evidence photographic evidence of the condition of the rental unit at the end of the tenancy; a copy of the move in condition inspection report; and receipts for expenses incurred in cleaning and repairing totalling \$438.67.

### Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 37 of the *Act* requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all keys or other means of access that are in the possession and control of the tenant and that allow access to and within the residential property.

I accept, based on the landlord's evidence and undisputed testimony that the tenants failed to clean the rental unit sufficiently and that they had caused the damage as presented in the landlord's photographic evidence. As a result I find the landlord has suffered a loss as a result of this tenancy. Based on the receipts submitted I find the landlord has established the value of this damage.

Further, I find, based on the landlord's undisputed testimony and evidence that the tenants failed to pay rent for the month of April 2012 despite having possession of the rental unit on the 1 day of the rental period.

### Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1248.67** comprised of \$760.00 rent owed; \$438.67 cleaning and repairs; 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 \$375.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$873.67**.

This order must be served on the tenants. If the tenants fail 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: May 29, 2012.

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Residential Tenancy Branch