



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND, MNR, MNSD, MNDC, FF

### Introduction

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

The hearing was conducted via teleconference and was attended by the landlord's agent and the tenant.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for compensation for damage or loss; 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 37, 38, 45, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord provided the following relevant documentary evidence:

- A copy of a tenancy agreement signed by the parties on February 7, 2011 for a 1 year fixed term tenancy beginning on February 9, 2011 that converted to a month to month tenancy on February 29, 2012 with a monthly rent of \$1,900.00 due on the 1<sup>st</sup> of each month with a security deposit of \$800.00 and a pet damage deposit of \$800.00 paid on February 7, 2011;
- A copy of an email dated March 2, 2012 from the tenant to the landlord advising of his intention to vacate the rental unit by March 16, 2012 and to take the remaining two weeks in March to clean the rental unit; and
- A copy of a Condition Inspection Report completed at the start of the tenancy on February 9, 2011 and when the tenant moved out on March 30, 2012. The report is signed by the tenant as agreeing that report accurately reflects the condition of the rental unit at both inspections.

The landlord seeks compensation for lost revenue in the form of rent of \$1,900.00 for the month of April 2012; painting the hallway in the amount of \$137.20; and an outstanding water bill in the amount of \$93.94. In support of this application the landlord has provided copies of advertisements Craigslist; a receipt for painting; and a local

water utility bill. The landlords' agent testified that, in addition to Craigslist the unit was advertised on another Used site and the property management companies website.

The tenant does not dispute the landlord's claim for painting or for the water utility bill. The tenant acknowledges that he provided the landlord with his written notice of his intention to vacate the rental unit on March 2, 2012 with the details of his notice as described above.

The tenant submits that he ended the tenancy because he bought his own home and that as a result of that purchase his current financial situation is less than ideal. The tenant seeks consideration

### Analysis

Section 45(1) of the *Act* stipulates that a tenant may end a tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

From the evidence and testimony before me, I find the effective date of the tenant's notice to end the tenancy issued on March 2, 2012 with an effective date of March 30, 2012 is not compliant with Section 45(1) and as such he is responsible for the payment of rent to the month of April 2012, subject to the landlord's obligation to mitigate any loss.

Section 7 of the *Act* states that a landlord who claims compensation for damage or loss that results from the other's non-compliance with the *Act* must do whatever is reasonable to minimize the damage or loss. I find the landlord's actions satisfy this requirement. As such, I find the landlord is entitled rent for April 2012 from the tenant.

I accept, based on the tenant's agreement, that the landlord is entitled to compensation in the amount of \$137.20 for painting and \$93.94 for water utility charges.

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. Section 38(6) stipulates that should the landlord fail to comply with Section 38(1) the landlord must pay the tenant double the security deposit.

Section 53 of the *Act* outlines that if a tenant gives a notice to end a tenancy effective on a date that does not comply with the requirements under Section 45 the notice is deemed to be changed to the earliest possible effective date that complies with the Section.

As such, I find the earliest possible effective date of this tenancy was April 30, 2012. The landlord filed his Application for Dispute Resolution on April 12, 2012, effectively

prior to the effective date of the end of the tenancy. I therefore find the landlord compliant with Section 38(1).

### Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$2181.14** comprised of \$1,900.00 rent owed; \$137.20 painting; \$93.94 water; and the \$50.00 fee paid by the landlord for this application.

I order the landlord may, pursuant to Section 72(2)(b), deduct the security deposit and pet damage deposit held in the amount of \$1,600.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$581.14**.

This order must be served on the tenant. If the tenant fails 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: June 08, 2012.

---

Residential Tenancy Branch