



# 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 a landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") to obtain a monetary order for unpaid rent and to keep all or part of a security deposit; and to recover the filing fee.

The tenant and the agent for the landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing the tenant and the agent for the landlord were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

The tenant confirmed that she received the Notice of Hearing and evidence package from the landlord. I find the tenant was served in accordance with the *Act*.

### Preliminary Matter

The agent for the landlord testified that the security deposit had been returned to the tenant, which the tenant confirmed. As a result, the security deposit portion of the landlord's request was withdrawn.

### Issue(s) to be Decided

- Should the landlord be granted a monetary order for unpaid rent?
- Should the landlord recover the filing fee?

### Background and Evidence

The landlord provided the tenancy agreement as evidence prior to the hearing. The tenancy agreement began on November 1, 2011 for a fixed term ending October 31, 2012. Rent was due on the first day of each month in the amount of \$1,124.00.

The landlord provided submitted a letter from the tenant dated on March 26, 2012 as evidence prior to the hearing. In the letter, the tenant indicated that she was providing

30 days notice before she would vacate the rental unit, effective April 29, 2012. In the letter, the tenant thanked the agent for the landlord for all of his help during both of her tenancies at the building.

The agent for the landlord testified that as soon as he received the tenant's notice, which was close to the end of the month of March, 2012, he made efforts to find another tenant for the rental unit. The agent for the landlord stated that he had a prospective tenant on March 29, 2012. However, upon returning to work on April 2, 2012, the prospective tenant had changed his mind and decided not to rent the unit.

The agent for the landlord stated that he continued to show the rental unit; placed an ad on the company website; in a local rental publication; and on a popular rental website. The agent for the landlord also testified that it is their policy to rent the unit as soon as possible; however, it was difficult to secure a new tenant after receiving notice so late in March 2012.

The agent for the landlord stated that he was able to mitigate the loss to the landlord by securing a new tenant effective June 1, 2012. The agent stated that they were not able to find a new tenant for May 2012, and incurred a loss of rent based on the fixed term tenancy agreement in the amount of \$1,124.00.

The tenant testified that she moved out of one unit and into a new unit in November 2011, when she signed a new tenancy agreement following the passing of a close friend. The tenant stated that she is very disappointed as she would not have rushed to vacate the rental unit if she knew she would owe rent for May 2012.

The landlord provided copies of the written tenancy agreement; tenant's notice; correspondence; receipt; and condition inspection report; as evidence for this proceeding.

### Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

**Claim for unpaid rent**— The agent for the landlord testified that fixed term tenancy was to expire on October 31, 2012. The agent stated that he mitigated the loss to the landlord by securing a new tenant effective June 1, 2012, however rent for May 2012 is owed. Pursuant to section 26 of the *Act*, a tenant must pay rent when it is due in accordance with the tenancy agreement. Based on the above, I find that the tenant has

failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month.

The tenant may only end a fixed term in accordance with section 45 of the *Act*, which the tenant did not do. As a result, I find the tenant is required to pay rent for May 2012, in full. Therefore, I find the landlord has met the burden of proof and I award the landlord a monetary claim of **\$1,124.00** for unpaid rent for May 2012.

The landlord has succeeded with their application; therefore I award recovery of the **\$50.00** filing fee.

**Monetary Order** – I find that the landlord is entitled to a monetary order in the amount of **\$1,174.00** pursuant to section 67 of the *Act*.

#### Conclusion

I find that the landlord has established a total monetary claim of **\$1,174.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 27, 2012

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Residential Tenancy Branch