



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPL, OPQ, MND, MNR, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for damage to the unit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

### Preliminary Matter

At the onset of the Hearing, the Parties confirmed that the Tenants moved out of the unit on or by June 1, 2012. The Landlord states that an Order of Possession is no longer required. As a result, the Landlord’s claim for an Order of Possession is dismissed.

### Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy began on April 11, 2012 and ended on or by June 1, 2012. No written tenancy agreement was in place and the Tenants shared a bedroom in a rooming house where the Landlord did not reside. Rent in the amount of \$650.00 was payable in advance on the first day of each month.

The Parties agree that each Tenant paid \$375.00 monthly rent through a Ministry and that the Landlord returned \$50.00 to each Tenant from the amounts paid. The Parties agree that Tenant A did not pay his share of the rent for May 2012 and on May 16, 2012 the Landlord served a 10 day notice to end tenancy for unpaid rent. This notice contains an effective date of May 26, 2012.

Tenant A states that he moved out of the unit on May 1, 2012 due to fear for his safety as other persons had keys to the unit. Tenant A states that no notice was provided to the Landlord that he would be moving out of the unit. The Landlord states that Tenant A did not move out of the unit, was seen on May 15, 2012 and had told the Landlord that he would not be leaving until June 1, 2012.

The Landlord states that no security deposit was collected. The Tenant states that at the outset of the tenancy they each paid, through a Ministry, \$187.50 and that this Ministry sent cheques to the Landlord totalling \$375.00.

The Landlord claims \$650.00 for unpaid rental arrears from May and June 2012. No documentary or oral evidence was provided by the Landlord in relation to its claims for costs of repairing a walk-way.

### Analysis

Co-tenants are jointly and severally liable for any debts relating to the tenancy. The relevant part of Section 45 of the Act provides that a tenancy ends as follows:

- (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that
  - (a) is not earlier than one month after the date the landlord receives the notice, and
  - (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Based on the undisputed evidence of the Parties, I find that Tenant A did not provide notice to the Landlord to end the tenancy and that the Landlord did not receive rent of \$350.00 for May 2012. Given these facts, I find that the Landlord has established a monetary claim for **\$350.00** in unpaid rent. Although Tenant B paid her share of the rent for May 2012, given that Tenant A and Tenant B shared a bedroom, I find that they were co-tenants and as such are equally and severally liable for unpaid rent.

Where a Landlord has elected to end a tenancy because of non-payment of rent, a tenant is not liable to pay rent after the tenancy agreement has ended pursuant to this notice. If however, the tenant remains in possession of the premises after the effective date of the notice, the tenant will be liable to pay occupation rent on a per diem basis until the landlord recovers possession of the premises. The Landlord in this case elected to end the tenancy agreement for non-payment of rent by serving a 10 day notice to end tenancy with a move-out date of May 26, 2012 and obtained possession of the unit on or by June 1, 2012. As such, I find that the Landlord is not entitled to rent for June 2012.

As the Landlord has not included a claim for retention of the security deposit, I find that the issue of whether a security deposit was received is not relevant to determining the Landlord's entitlement. As the Landlord did not present any oral or documentary evidence in relation to its claim for damage to a walk-way, I dismiss this part of the Landlord's application. As the Landlord has been only partially successful with its claim, I decline to award recovery of the filing fee.

### Conclusion

**I grant** the Landlord an order under Section 67 of the Act for **\$350.00**. If necessary, this order may be filed in the Small Claims Court and 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 18, 2012.

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Residential Tenancy Branch

