



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNR, FF

### Introduction

This hearing was convened by way of conference call in response to an application made by the landlords for a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of this application.

An agent for the landlord and the landlord company attended the conference call hearing, gave affirmed testimony and provided evidence in advance of the hearing. However, despite being served with the Landlord Application for Dispute Resolution and notice of hearing documents personally on May 9, 2012, the tenant did not attend. The landlord's agent testified that the documents were delivered on that date and in that fashion and I find that the tenant has been served in accordance with the *Residential Tenancy Act*.

All testimony and evidence provided has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

Are the landlords entitled to a monetary order for unpaid rent or utilities?

### Background and Evidence

The landlord's agent testified that this fixed term tenancy began on April 3, 2011 and expires on May 31, 2013. The tenancy ultimately ended on or about June 23, 2012 following a dispute resolution hearing on May 31, 2012 wherein the landlord was granted an Order of Possession on 2 days notice to the tenant for unpaid rent. Rent in the amount of \$2,795.00 per month was payable in advance on the 1<sup>st</sup> day of each month. On April 4, 2011 the landlord collected a security deposit from the tenant in the amount of \$1,397.50 which is still held in trust by the landlord. A copy of the tenancy agreement was provided for this hearing.

The landlord testified that the tenant is in arrears of rent for the months of March, April and May, 2012. The tenant made many promises and gave the landlord's agent cheques which did not clear the financial institution. Three of the cheques were drawn on a U.S. account which had been closed. The financial institution charged the landlord \$204.22 which includes conversion rates for the cheques from U.S. to Canadian funds and from Canadian funds to U.S. funds. The landlord claims that amount from the tenant and provided copies of 4 cheques written by the tenant to the landlord, 3 of which were drawn on an account with the Bank of America and corresponding Return Item Advice documents provided by the landlord's financial institution. The Advice documents show that all 4 cheques were returned because the accounts were closed. Also provided is a copy of the landlord's bank account statement showing the charges and conversions.

The landlord's agent also provided copies of numerous emails and text messages exchanged between the parties wherein the tenant was advised by the landlord's agent that the cheques had not cleared the financial institution.

The landlord's application shows a claim in the amount of \$8,435.00, however the landlord's agent testified that the amount represents the outstanding rent and \$50.00 for recovery of the filing fee and the landlord requests an additional \$204.00 for the bank fees, less the security deposit of \$1,397.50, for a total claim of \$7,241.50.

### Analysis

In the circumstances, I find that the tenant is in arrears of rent the sum of \$8,385.00, and the tenant has caused the landlord to incur bank fees in the amount of \$204.00 presumably knowing that the accounts the cheques were drawn on were closed prior to issuing them to the landlord. The regulations to the *Residential Tenancy Act* permit the landlord to charge a service fee charged by a financial institution to the landlord for the return of a tenant's cheque.

The landlord is also entitled to recovery of the \$100.00 for the cost of this application.

I order the landlord to keep the security deposit in partial satisfaction of the claim and I hereby grant a monetary order in favour of the landlord for the difference in the amount of \$7,291.50.

### Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$7,291.50.

This order is final and binding on the parties and may be enforced.

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: July 6, 2012.

---

Residential Tenancy Branch