



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:40 p.m. in order to enable him to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The female landlord (the landlord) testified that she posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door on May 3, 2012. Her husband, who assists her in managing this property, witnessed her post the 10 Day Notice on the tenant's door on that date. The landlord testified that she sent the tenant a copy of the landlord's dispute resolution hearing package by registered mail on May 18, 2012. She provided the Canada Post Tracking Number to confirm this mailing. She testified that Canada Post on-line tracking records confirm that her hearing package was received by the tenant. I am satisfied that the landlord served the above documents to the tenant in accordance with the *Act*.

At the commencement of the hearing, the landlord testified that the tenant abandoned this rental unit and yielded possession of the rental unit to the landlord by May 27, 2011. The landlord withdrew her application for an Order of Possession. The landlord's application for an Order of Possession is withdrawn.

### Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit

in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

This tenancy commenced as a six-month fixed term tenancy on June 12, 2009. At the end of the initial term, the tenancy continued as a periodic tenancy. By the end of this tenancy, the monthly rent was set at \$823.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$395.00 security deposit paid on June 11, 2009.

The landlord's application for a monetary award of \$1,716.00 included the following:

Item	Amount
Unpaid May 2012 Rent	\$823.00
Unpaid May 2012 Parking	25.00
Late Fee May 2012	20.00
Unpaid June 2012 Rent and Parking	848.00
<b>Total Monetary Award Requested</b>	<b>\$1,716.00</b>

At the hearing, the landlord testified that she was successful in re-renting the rental unit for \$830.00 per month to another tenant as of June 16, 2012. She testified that she started advertising the rental unit on Craigslist on May 27, 2012. She confirmed that the new tenant has paid \$415.00 for his occupancy of the premises for June 2012. The new tenant does not pay for parking.

### Analysis

I find that the landlord is entitled to recover \$848.00 for unpaid rent and parking for May 2012 and the \$20.00 late fee for the tenant's failure to pay his rent for that month.

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. Section 45(1) of the *Act* requires a tenant to end a periodic tenancy by giving the landlord notice to end the tenancy the day before the day in the month when rent is due. In this case, in order to avoid any responsibility for rent for June 2012, the tenant would have needed to provide his notice to end this tenancy before May 1, 2012. There is undisputed evidence that the tenant did not pay any rent for June 2012. However, section 7(2) of the *Act* places a responsibility on a landlord claiming compensation for loss resulting from a tenant's non-compliance with the *Act* to do whatever is reasonable to minimize that loss.

Based on the evidence presented, I accept that the landlord did attempt to the extent that was reasonable to re-rent the premises for June 2012. She commenced efforts to re-rent this rental unit as soon as she realized that the tenant had abandoned the rental unit. She said that there was damage to the rental unit that required some cleaning and repair such that the premises could not have been re-rented as of June 1, 2012. I am satisfied that the landlord has discharged the duty under section 7(2) of the *Act* to minimize the tenants' loss by renting the premises as of June 16, 2012.

I allow the landlord to recover the total rental losses the landlord suffered for June 2012. This results in a monetary award in the landlord's favour for June 2012 of \$408.00, which results from the landlord's loss of \$823.00 less the \$415.00 she received.

I allow the landlord to retain the tenant's security deposit plus allowable interest in partial satisfaction of this monetary award. No interest is payable over this period. The landlord is entitled to recover the filing fee from the tenant.

### Conclusion

The landlord's application for an Order of Possession is withdrawn. I issue a monetary Order in the landlord's favour under the following terms which allows the landlord to recover unpaid rent, losses incurred during this tenancy, the filing fee for this application and to retain the tenant's security deposit:

Item	Amount
Unpaid May 2012 Rent and Parking	\$848.00
Late Fee May 2012	20.00
Landlord's Losses from June 1, 2012 to June 15, 2012	408.00
Less Security Deposit	-395.00
Filing Fee	50.00
<b>Total Monetary Order</b>	<b>\$931.00</b>

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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 11, 2012

---

Residential Tenancy Branch