



# 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 repose to the landlords' application for a Monetary Order for unpaid rent and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlords to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on June 06, 2012. Mail receipt numbers were provided in the landlords' documentary evidence. The tenant signed for the hearing documents from Canada Post on June 08, 2012

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### Issue(s) to be Decided

Is the landlord entitled to a Monetary Order to recover unpaid rent?

### Background and Evidence

The landlord testifies that this tenancy started on January 26, 2012 for a month to month tenancy. Rent for this unit was verbally agreed at \$700.00 per month and was due on the first day of each month.

The landlord testifies that a previous hearing was held in response to the landlords' application for an Order of Possession and a Monetary Order for unpaid rent for May, 2012. The tenant also filed an application and both applications were heard at the previous hearing. At that hearing the landlord was successful in obtaining an Order of Possession which was issued on June 04, 2012 and had an effective date for two days after service on the tenant. The landlord testifies that the tenant was served on June 04, 2012 and did not move from the rental unit until June 08, 2012. The unit was left in an unclean condition and could not be advertised for rent until the landlords had cleaned the unit.

The landlord testifies that the unit was advertised as soon as it was presentable and it remains unrented to date. The landlords therefore seek to recover unpaid rent for June, 2012 of \$700.00.

The landlords also seek to recover their \$50.00 filing fee from the tenant.

### Analysis

A tenant is not liable to pay rent after a tenancy agreement has ended pursuant to the Residential Tenancy Guidelines #3 if the landlord has issued the tenant with a One Month Notice to End Tenancy, however if a tenant remains in possession of the premises (over holds), the tenant will be liable to pay occupation rent on a *per diem* basis until the landlord recovers possession of the premises. In certain circumstances, a tenant may be liable to compensate a landlord for loss of rent. The type of special circumstances would be if the premises are un-rentable due to damage caused by the tenant; the landlord would then be entitled to claim damages for loss of rent. The landlord is required to mitigate the loss by completing the repairs in a timely manner.

The landlord has testified that the tenant did over hold at the rental unit until June 08, 2012 without paying rent and the unit was left in a condition in which it could not be re-rented. I am satisfied with the undisputed testimony of the landlord that the tenant overheld in the rental unit and failed to leave the rental unit in a condition that rendered the unit suitable for renting or presenting to potential tenants'. Consequently I uphold the landlords application for unpaid rent for June, 2012 and find the landlord is entitled to a Monetary Order for the sum of **\$700.00** pursuant to s. 67 of the *Act*.

As the landlords have been successful in this mater I find the landlords are entitled to recover the **\$50.00** filing fee from the tenant pursuant to s. 72(1) of the *Act*.

#### Conclusion

I HEREBY FIND in favor of the landlords' monetary claim. A copy of the landlords' decision will be accompanied by a Monetary Order for **\$750.00**. The order must be served on the respondent and is enforceable through the Provincial Court 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: August 02, 2012.

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Residential Tenancy Branch