



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *MND, MNR, MNSD, FF*

### **Introduction,**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act*, for a monetary order for unpaid rent and utilities, for the cost to replace the refrigerator, and for the recovery of the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of his claim. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to a monetary order for unpaid rent and utilities, for the cost to replace the refrigerator and for the filing fee?

### **Background and Evidence**

The tenancy started on May 01, 2011. The landlord stated that the tenant moved in on April 12, 2011 but despite repeated requests, did not pay rent for April. The tenant stated that he moved in on May 01 and provided evidence of his previous tenancy which included a rent receipt for April 2011.

Rent was \$650.00 due on the first day of each month and did not include utilities. Prior to moving in the tenant paid a security deposit of \$300.00. The tenant moved out on September 02, 2012.

The landlord stated that the tenant owed \$87.04 for hydro and \$20.00 for gas. The tenant agreed that he owed these amounts. The landlord is also claiming rent for half of April 2011 in the amount of \$325.00.

The landlord testified that the in summer, the tenant would leave the doors to the refrigerator and the attached freezer open, to cool the room. This resulted in the motor of the appliance burning out. The landlord had purchased the refrigerator two years prior to the breakdown, from a reputable company and provided a receipt as proof of having done so. The repair technician from this company informed the landlord that to fix the refrigerator would cost more than to replace it. Therefore the landlord purchased a new refrigerator and provided proof of purchase.

The landlord stated that the refrigerator broke down due to the tenant's negligence and therefore he was claiming the cost of replacement in the amount of \$666.36.

The tenant agreed that he had left the doors open, but added that he had unplugged the refrigerator and did so to defrost the appliance. He agreed that shortly after the refrigerator stopped working.

### **Analysis**

Based on the testimony of both parties, I find that tenant had paid rent for April 2011 at his previous residence. I am unable to determine the date the tenant moved in, but since the tenant had a place for that period in April, that the landlord is claiming rent for, I find that it is more likely than not that the tenant would not have moved in earlier than May 01, if he was required to pay rent for half of April.

In addition, if the tenant owed rent for this period, the landlord had the opportunity to serve the tenant with a notice to end tenancy and file an application for dispute resolution. The landlord chose not to and therefore I find that the landlord is not entitled to his claim for rent for April 2011.

The tenant agreed that he moved out on September 02, 2012, when the tenancy ended on August 31, 2012. Therefore I will award the landlord prorated rent for the overstay, in the amount of \$43.33.

The tenant has agreed to pay for utilities in the amounts of \$87.04 plus \$20.00.

The tenant agreed that he had left both doors of the refrigerator open for a few days. I am unable to determine whether this was the sole cause of the breakdown of the appliance or whether it contributed to the breakdown. Either way, I find that the tenant was negligent in his use of the refrigerator and it is more likely than not that the actions of the tenant contributed to its demise

Section 40 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. I will use this guideline to assess the remainder of the useful life of the refrigerator. As per this policy, the useful life of a refrigerator is fifteen years. The landlord purchased the refrigerator brand new, in September 2009 and therefore at the time of breakdown the refrigerator was two years old and had thirteen years of useful life left.

Based on the testimony of both parties, I find that the tenant either caused the breakdown or at least contributed to the breakdown. Therefore I will award the landlord a portion of the cost to replace the refrigerator. I find it reasonable to award the landlord the prorated cost of half the remainder of useful life of the refrigerator.

In this case, the refrigerator had thirteen years of useful life left at the time it broke down and the total cost of replacement was \$666.36. Accordingly, I find that the landlord is entitled to \$288.75 which is the prorated value of half the remainder of the useful life of the refrigerator.

The landlord has proven most of his claim and therefore is also entitled to the recovery of the filing fee in the amount of \$50.00.

Overall the landlord has established a claim for:

1.	Hydro	\$87.04
3.	Rent for overstay	\$43.33
4.	Replace refrigerator	\$288.75
5.	Filing fee	\$50.00
	Total	<b>\$489.12</b>

I order that the landlord retain the security deposit of \$300.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$189.12. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord a monetary order in the amount of **\$189.12**.

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: September 14, 2012.

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Residential Tenancy Branch