



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, 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. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was personally served with the application for dispute resolution and notice of hearing on October 1, 2012 in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Preliminary Matter

At the onset of the Hearing, the Landlord noted that an amendment had been made to the application to seek a monetary order for damages to the unit. This amendment was served to the Tenants at their place of business on October 23, 2012. The Landlord requests an adjournment of this claim. Given the date of service of the amendment, considering the late notice to the Tenants of this claim and considering that the Tenants would not be prejudiced by an adjournment, I grant the adjournment in relation to the claim for damages to the unit. The Landlord will be provided with a Notice of Adjourned Hearing and must serve this notice on the Tenants.

The Landlord states that the Tenants have not provided their forwarding residential address and refuse to communicate with the Landlord. The Landlord requests an order that the Notice of Adjourned hearing be allowed to be served on the Tenants at their place of business. Based on the undisputed evidence of the Landlord, I find that it would be necessary to allow the Landlord to serve the Tenants at their place of business and I so order that the Landlord may serve the Tenants with the Notice of Adjourned hearing at their place of business.

The Landlord must serve the Tenant with the Notice of Hearing letter, the Landlord's amended application and any evidence in accordance with the service provisions of the Act or at the Tenants place of business and **no later than 5 days before the Hearing.**

Failure to attend the Hearing at the scheduled time, with all relevant documents and/or witnesses, will result in a decision being made on the basis of any information before the Dispute Resolution Officer and the evidence of the Party in attendance at the Hearing.

The Landlord states that as the Tenants have moved out of the unit and returned the keys, the Landlord no longer requires an Order of Possession.

#### Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recovery of the filing fee?

#### Background and Evidence

The tenancy started on September 1, 2011 and ended on October 20, 2012 following the service of a Notice to End Tenancy issued by the Landlord on September 5, 2012. Rent of \$2,500.00 was payable monthly and at the onset of the tenancy, the Landlord collected \$1,129.00 as a security deposit. The Tenants failed to pay rent for September and October 2012 and the Landlord claims \$5,000.00 in unpaid rent.

Analysis

Section 65 of the Act provides that if a tenant has been found not to be in compliance with the tenancy agreement, an order may be made that any money owing by a tenant to the landlord must be paid. Based on the undisputed evidence of the Landlord, I find that the Tenant was required under the tenancy agreement to pay rent of \$2,500.00 on a monthly basis and that the Tenant failed to pay rent for September and October 2012. Accordingly, I find that the Landlord is entitled to a monetary amount of **\$5,000.00** in unpaid rent. The Landlord is also entitled to recovery of the **\$50.00** filing fee for a total monetary entitlement of **\$5,050.00**. Setting the security deposit of **\$1,129.00** off this entitlement leaves \$3,921.00 owed by the Tenant to the Landlord.

Conclusion

**I order** that the Landlord retain the **deposit** and interest of \$1,129.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$3,921.00**. 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: November 01, 2012.

---

Residential Tenancy Branch