



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **Decision**

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

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for rent owed.

Both parties appeared at the hearing and gave evidence.

### **Issue(s) to be Decided**

Is the landlord entitled to compensation for rental arrears?

### **Background and Evidence**

The landlord testified that the tenancy began in September 2006, and the rent was \$1,000.00 per month. A security deposit of \$450.00 was paid. The landlord testified that the tenant fell into arrears over a period during 2010, 2011 and 2012.

No evidence, such as a copy of the tenant's ledger, was submitted by the landlord to support the monetary claim. However, the landlord gave verbal testimony regarding the tenant's payment history and the outstanding amounts owed.

The landlord testified that in July 2012 the tenant suddenly vacated without notice having failed to pay the accrued arrears as well as the \$1,000.00 rent owed for July 2012. The landlord testified that they also lost \$1,000.00 revenue for the month of August 2012 after the tenant moved out because the unit was vacant. The landlord testified that they did not attempt to re-rent the rental unit in July or August 2012 as the unit needed renovations. The total amount being sought by the landlord is \$5,330.00.

The tenant testified that in June 2012, the landlord was told verbally that they were vacating the unit in July 2012. The tenant acknowledged that rental arrears were owed. However, the tenant disagreed with the landlord's verbal testimony with respect to the amount of the debt. The tenant stated that their calculations indicated that they only owed \$830.00 for the early arrears and another \$1,700.00 for the more recent arrears. The tenant testified that they only remained in the rental unit for a portion of July 2012 and felt that they should not be held liable for the full amount of rent. The tenant

disagreed with the landlord's claim for \$1,000.00 in lost revenue for August 2012. The tenant pointed out that the landlord had since sold the building.

### **Analysis**

Based on the testimony of the landlord and the tenant, I find that the tenant was in arrears for \$2,530.00 for past rent and the landlord is entitled to compensation for this amount.

In regard to the rent for July 2012, I find that section 26 of the Act states that rent must be paid when it is due under the tenancy agreement. Through testimony from both parties it has been established that the tenant did not pay the \$1,000.00 rent for July 2012 when it was due and the landlord is therefore entitled to compensation for this amount.

In regard to the landlord's claim for loss of revenue for the month of August 2012, I find that the tenancy had before August ended and thus this would not be rent claimed, but would be a claim in damages. I find it important to note that in a claim for damage or loss under the Act, the party making the claim bears the burden of proof and the evidence furnished by the applicant must satisfy each component of the test below:

#### **Test For Damage and Loss Claims**

1. Proof that the damage or loss exists,
2. Proof that this damage or loss happened solely because of the actions or neglect of the Respondent in violation of the Act or agreement
3. Verification of the actual amount required to compensate for the claimed loss or to rectify the damage.
4. Proof that the claimant followed section 7(2) of the Act by taking reasonable steps to mitigate or minimize the loss or damage

In this instance, the burden of proof is on the landlord to prove the existence and value of the damage/loss stemming directly from a violation of the agreement or a contravention of the Act by the respondent and to verify that a reasonable attempt was made to mitigate the damage or losses incurred.

In this instance, I find that the landlord did not meet element 4 of the test for damages by making a reasonable attempt to re-rent the unit for August 2012, and the claim for loss of rent must be dismissed.

I find that the landlord is entitled to a monetary order for \$3,630.00 comprised of \$2,530.00 rental arrears, \$1,000.00 for rent owed for July 2012 and the \$100.00 cost of the application. The landlord is ordered to retain the tenant's security deposit and interest of \$464.38 in partial satisfaction of the claim leaving an outstanding balance of \$3,165.62.

I hereby issue the landlord an order under section 67 of the Act for \$3,165.62. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court if not paid.

### **Conclusion**

The landlord was granted a monetary order for rental arrears owed in the amount of \$3,165.30.

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 06, 2012.

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Residential Tenancy Branch