



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNR, MNSD, MNDC, FF

### Introduction

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

- 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 his filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:27 a.m. in order to enable him to connect with this teleconference hearing scheduled for 9:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord entered oral and written evidence that he handed the tenant a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on October 1, 2012. The landlord provided a Proof of Service document in which the tenant signed as having received the 10 Day Notice on October 1, 2012. The landlord testified that he handed the tenant a copy of his dispute resolution hearing package on October 26, 2012 at the tenant's workplace. I am satisfied that the landlord served the above documents to the tenant in accordance with the *Act*.

### 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 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

The landlord testified that the tenant moved into the rental unit on June 7, 2012, on the basis of a periodic tenancy. On August 13, 2012, the parties signed a one-year fixed term Residential Tenancy Agreement (the Agreement), which commenced on September 1, 2012. Monthly rent was set at \$900.00, payable on the first of each month. The landlord retains the tenant's \$425.00 security deposit paid on June 3, 2012.

By late September 2012, the tenant advised the landlord that he could not afford the rent for this rental unit and needed to end his tenancy. The landlord issued his 10 Day Notice seeking \$2,400.00 in outstanding rent. The landlord testified that the tenant vacated the rental unit by October 13, 2012, without paying any further rent.

The landlord's application for a monetary award of \$3,300.00 included:

<b>Item</b>	<b>Amount</b>
Unpaid Rent - July 2012	\$900.00
Unpaid Portion of August 2012 Rent (\$900.00 – credits of \$230.00 and \$70.00 given to tenant for work performed for landlord = \$600.00)	600.00
Unpaid Rent - October 2012	900.00
Loss of Rent - November 2012	900.00
<b>Total of Above Items</b>	<b>\$3,300.00</b>

### Analysis

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.

Based on the undisputed evidence before me, I find that the landlord is entitled to a monetary award of \$900.00 for unpaid rent for July 2012, and \$600.00 for August 2012.

I also find that the tenant was in breach of his fixed term Agreement because he vacated the rental premises prior to the August 31, 2013 date specified in that Agreement. As such, the landlord is entitled to compensation for losses he incurred as a result of the tenant's failure to comply with the terms of their Agreement and the *Act*. There is undisputed evidence that the tenant did not pay any rent for November 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 the remainder of October 2012 and November 2012. He testified that he placed advertisements on two popular rental websites and posted a sign on the lawn of the rental property, which he noted has good street visibility. He testified that he showed the premises to two prospective tenants in October 2012 and three more in November 2012. He was able to re-rent the premises

to another tenant who took possession as of December 1, 2012, at the same average monthly rent as that paid by the respondent in the landlord's application. I am satisfied that the landlord has discharged his duty under section 7(2) of the *Act* to minimize the tenants' losses. For these reasons, I also issue a monetary award in the landlord's favour for his loss of rent of \$900.00 for each of October 2012 and November 2012.

I order the landlord to retain the tenant's security deposit plus applicable interest in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period. I also allow the landlord to recover his filing fee from the tenant.

### Conclusion

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid and lost rent and his filing fee, and to retain the tenant's security deposit:

Item	Amount
Unpaid Rent - July 2012	\$900.00
Unpaid Portion of August 2012 Rent	600.00
Unpaid Rent/Loss of Rent October 2012	900.00
Loss of Rent - November 2012	900.00
Less Security Deposit	-425.00
Filing Fee	50.00
<b>Total Monetary Order</b>	<b>\$2,925.00</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: January 25, 2013

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Residential Tenancy Branch

