



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent.

The landlord provided documentary evidence the tenant was served with the notice of hearing documents and this Application for Dispute Resolution to the address provided by the tenant as her forwarding address, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on November 9, 2012 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenant on the 5<sup>th</sup> day after it was mailed.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 45, 67, and 72 of the *Act*.

### Background and Evidence

The landlord testified the tenancy began on July 1, 2012 as a month to month tenancy for the monthly rent of \$995.00 due on the 1<sup>st</sup> of each month with a security deposit of \$497.50 paid.

The landlord testified that the tenant provided, on October 9, 2012 notice of her intent to end the tenancy and vacated the rental unit on October 31, 2012. The landlord also

testified the tenant provided her forwarding address on the move out Condition Inspection Report that was completed on October 31, 2012.

The landlord testified that she showed the rental unit to at least 5 candidates but was unable to rent the unit until December 2012. The landlord seeks compensation for rent for the month of November 2012.

### Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 45(1) of the *Act* stipulates that a tenant may end a tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

As per the undisputed testimony of the landlord I find that based on the tenant's notice to end the tenancy being received by the landlord on October 9, 2013 the earliest the tenancy could have ended was November 30, 2012. As such, I find the landlord has suffered a loss and that that loss resulted from the tenant's violation of Section 45(1).

I accept the landlord took reasonable steps to mitigate her losses by attempting to re-rent the unit in a timely fashion and that she was not able to secure a new tenant until December 2012.

### Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,045.00** comprised of \$995.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$497.50 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$547.50**.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: February 05, 2013

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Residential Tenancy Branch