



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MND, MNR, MNSD, FF

### Introduction

This hearing was convened by way of conference call in response to the landlords application for an Order of Possession for unpaid rent or utilities; For a Monetary Order for damage to the unit, site or property; for a Monetary Order for unpaid rent or utilities; for an Order permitting the landlord to keep all or part of the tenants security deposit; and to recover the filing fee from the tenant for the cost of this application. At the outset of the hearing the landlord advised that the tenants are no longer residing in the rental unit, and therefore, the landlord withdraws the application for an Order of Possession. The landlord also withdraws his application for a Monetary Order for damage to the unit and to keep the security deposit.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*; the landlord testifies that the landlord served the tenants in person on May 16, 2013.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### Preliminary Issues

The landlord testifies that the tenancy agreement was with the first named tenant on this application. The other named parties were residing in this unit after the tenant had asked the landlord if the tenant can sublet the unit to tenants in recovery. Therefore, as there is only one tenant for the landlord any orders will be against that tenant only.

### Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent and utilities?

### Background and Evidence

The landlord testifies that this month to month tenancy started on April 05, 2013 after the tenant took over the tenancy from the previous tenant. The tenant moved from the rental unit on or about June 03, 2013. Rent for this unit was \$1,500.00 per month and was due on the first day of each month. The tenant failed to pay a security deposit.

The landlord testifies that the tenant failed to pay rent for May, 2013. A 10 Day Notice to End Tenancy was served upon the tenant on May 02, 2013 by posting it to the door of the rental unit. This Notice informed the tenant that rent is owed for May of \$1,500.00 and the tenant has five days to either pay the rent or dispute the Notice or the tenancy will end on May 02, 2013. The landlord testifies that the tenant did not pay the rent or dispute the Notice and moved from the unit on or about June 03, 2013.

The landlord testifies that the tenant also failed to pay rent for June, 2013 and the landlord seeks a Monetary Order to recover rent for May and June, 2013 of \$3,000.00. The landlord testifies that the 10 Day Notice also informed the tenant that utilities were owed of \$571.20 for April and May, 2013. The landlord testifies that he provided evidence showing these outstanding utilities but only sent it the day before the hearing.

### Analysis

The tenant did not appear at the hearing to dispute the landlords' claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I have considered the landlords documentary evidence and affirmed testimony before me. Section 26 of the *Act* states:

*A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

The landlord has testified that rent is due on the 1<sup>st</sup> day of each month and the tenant failed to pay rent for May and June, 2013. The tenant moved from the rental unit on or about June 03, 2013. Therefore in accordance with the Residential Tenancy Policy Guidelines #3 which states, in part, that in a month to month tenancy, if the tenancy is ended by the landlord for non-payment of rent, the landlord may recover any loss of rent suffered for the next month as a notice given by the tenant during the month would not end the tenancy until the end of the subsequent month. Therefore, I find the landlord is entitled to recover a loss of rent for May and June, 2013. The landlord has therefore established a claim for unpaid rent of **\$3,000.00**.

The landlord also seeks to recover the sum of \$571.20 in unpaid utilities. As I have not received the evidence concerning the utilities in the form of utility bills sent the day before the hearing I am unable to determine the actual amount of unpaid utilities or that the landlord has provided copies of the utility bills to the tenant with a written demand for payment within 30 days. This section of the landlords claim is therefore dismissed with leave to reapply.

As the landlord has been partially successful with his amended claim I find the landlord is entitled to recover the **\$50.00** filing fee from the tenant.

Conclusion

I HEREBY FIND in partial favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$3,050.00**. The order must be served on the tenant and is enforceable through the Provincial Court as an order of that Court.

The landlord's application for utilities is dismissed with leave to reapply.

The landlord's application against the other three named tenants is dismissed without leave to reapply.

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: June 14, 2013

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Residential Tenancy Branch