



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Kenmark Investments Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order authorizing her to retain the security and pet deposits. Both parties participated in the conference call hearing.

### Issues to be Decided

Is the landlord entitled to a monetary order as claimed?  
Should the landlord be authorized to retain the security deposit?

### Background and Evidence

The parties agreed that the tenancy started on January 18, 2013, that rent was set at \$750.00 per month and that the tenant paid a \$375.00 security deposit and a \$375.00 pet deposit. The landlord claimed that the tenant did not vacate the unit until May 1, 2013 while the tenant stated that she had completely removed her belongings by April 30 and was merely performing cleaning on May 1.

The landlord seeks to recover unpaid rent for the month of April. The tenant acknowledged that she did not pay rent in April, but stated that the landlord had served her with a one month notice to end tenancy which was effective on April 30 and because she needed money for moving and for a security deposit on her new home, she was unable to pay rent for April.

The landlord seeks to recover loss of income for the month of May. She stated that the building continuously advertises vacancies and that no one expressed interest in the rental unit. The landlord took the position that because the tenant did not surrender possession of the unit at 1:00 p.m. on April 30, she should be held responsible for rent for the month of May.

The landlord seeks to recover \$100.00 as the cost of cleaning the carpet at the end of the tenancy. The tenant agreed that the landlord was entitled to this award.

The landlord seeks to recover the \$50.00 filing fee paid to bring her application.

### Analysis

The tenant acknowledged that she did not pay rent in the month of April. While I appreciate that the tenant was under financial restraints because of her impending move, this does not excuse her from her contractual obligation to pay rent. I find that the landlord is entitled to recover the rental arrears for the month of April and I award her \$750.00.

Section 37(1) of the Act clearly states that the tenant must vacate the rental unit by 1:00 p.m. on the day the tenancy ends. The tenant had been served with a 10 day notice to end tenancy which she did not dispute and which had an effective date of April 19. The tenant clearly overheld the unit as she was required by law to have vacated the unit by 1:00 p.m. on April 19. Although the tenant had completely removed her belongings by April 30, she did not surrender possession by returning keys until May 1.

I find the fact that she overheld the unit by one extra day to be irrelevant. The landlord did not lose income for the month of May because of the tenant's actions. Rather, she lost income because no one expressed interest in the rental unit. As the landlord's loss cannot be attributed to the tenant, I dismiss the claim for payment for the month of May.

As the parties agreed that the tenant was responsible for the cost of carpet cleaning, I award the landlord \$100.00.

As the landlord has been substantially successful in her claim, I find that she should recover her filing fee and I award her \$50.00.

### Conclusion

The landlord has been awarded \$900.00 which represents \$750.00 in rental arrears for April, \$100.00 for carpet cleaning and \$50.00 for the filing fee. I order the landlord to retain the security and pet deposits totaling \$750.00 in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance of \$150.00. This order may be filed in the Small Claims Division of the Provincial 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: July 26, 2013

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Residential Tenancy Branch

