



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Waldorf Manor  
and [tenant name suppressed to protect privacy]

## **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 and the tenant.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for damage to the rental property; 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 37, 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord provided a copy of a tenancy agreement signed by the parties on April 29, 2013 for a 6 month and 2 day fixed term tenancy beginning on April 29, 2013 for a monthly rent of \$900.00 due on the 1<sup>st</sup> of each month with a security deposit of \$450.00 and a pet damage deposit of \$450.00 paid.

The parties agree that on May 5, 2013 the tenant's friend damaged the front entrance; the door to the rental unit and assaulted the building manager on the property. The landlord seeks compensation for the repairs required to the front entrance (\$280.28) and to the rental unit door and wall (\$200.00). The landlord has provided receipts.

The tenant submits that she did not allow her friend into the rental unit. She states that she had been sleeping and was awoken around 1:00 a.m. when she found a rock on

her balcony. She testified she contacted the building manager to advise him of the rock on the balcony and that she then went out for while. When she returned the police the damage and assault had occurred. The tenant states she did not let the friend into the unit.

The parties also agree that the tenant stayed at a hotel that night and she proceeded to move out the following day. The parties agree they did discuss returning rent for the balance of May 2013 but that they did not come to any agreement on the issue.

The landlord also seeks compensation for lost revenue in the amount of \$900.00 for the month of June 2013 because she was not able to re-rent the unit until July 2013. The landlord provided copies of Craigslist's postings for the rental unit that indicate they were originally posted on May 13, 2013.

The tenant submits that she ended the tenancy because she felt unsafe returning to the rental unit, it was not that she simply decided that she did not like the rental unit any longer.

The landlord also seeks \$30.00 for garbage disposal. The landlord did not provide into evidence any documentation confirming the condition of the rental unit or the need to remove any garbage at the end of the tenancy. The landlord also did not provide any receipts confirming these costs.

### 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.

Section 45(3) states that if a landlord has failed to comply with a material term of the tenancy agreement and has not corrected the situation within a reasonable period after the tenant gives written notice of the failure, the tenant may end the tenancy effective on a date that is after the date the landlord receives the notice.

As such, and despite the circumstances the Act requires the tenant may only end the tenancy after giving at least 1 month notice of her intention to end the tenancy unless the landlord has breached a material term of the tenancy agreement.

As I have no evidence that the landlord breached a material term, I find the earliest the tenant could have ended the tenancy by giving the landlord of her intent to do was June 30, 2013 to be compliant with Section 45(1). As the tenant failed to do so she is responsible for the payment of rent for the month of June 2013 subject only to the landlord's obligation to mitigate any losses.

I accept the landlord began re-advertising the rental unit within a reasonable time after the tenant had vacated the unit and that they took all reasonable steps to find a new tenant but that they were unsuccessful in finding a tenant for any portion of June 2013.

As to the landlord's claim for damage to the residential property at the front door and the door to the rental unit, I note that the landlord believes the tenant let the friend into the unit where he caused the damage and the tenant submits that she did not let him to the unit.

From the fact that the front door of the residential property and the door to the tenant's rental unit were both broken by the friend it is apparent that the friend forced his way into the property and unit. I find that to be an indication that the tenant did not allow the friend access to the property. As such, I find the tenant cannot be held responsible for the cost of these repairs. I dismiss this portion of the landlord's claim.

As the landlord has failed to provide any evidence regarding any garbage that required removal from the rental unit at the end of the tenancy or provided any evidence to establish a cost associated with garbage removal, I find the landlord has failed to establish any liability on the tenant's part and I dismiss this portion of the landlord's Application.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$925.00** comprised of \$900.00 rent owed and \$25.00 of the \$50.00 fee paid by the landlord for this application, as she was only partially successful.

I order the landlord may deduct the security deposit and pet damage deposit held in the amount of \$900.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$25.00**.

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: August 28, 2013

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Residential Tenancy Branch