



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, O, FF

### Introduction

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

The hearing was conducted via teleconference and was attended by the landlord and the tenant and her partner.

At the outset of the hearing the landlord clarified the tenants had vacated the rental unit and he no longer needed an order of possession. As such, I amended the landlord's Application to exclude the matter of possession.

I noted that the landlord had also submitted a substantial volume of evidence regarding matters unrelated to the non-payment of rent and were related to the condition of the rental unit at the end of the tenancy. In this evidence the landlord appears to be seeking for the condition of the unit in an amount in excess of \$3,000.00.

As the landlord had not submitted an amended Application to the Residential Tenancy Branch or to the tenant outlining his revised claim and since he waited to the last possible day, according to the Rules of Procedure, that he could serve the tenants with his evidence despite having the most of it in November and December, I dismiss the landlord's request to amend his Application. I note the landlord remains at liberty to file a separate Application for Dispute Resolution seeking that compensation.

The tenant submitted evidence for this file that was received 4 days prior to the hearing. As the landlord served his evidence so late to the tenant restricting her ability to respond to the landlord's evidence within the required deadlines, I will accept the tenant's evidence and have considered it in this decision.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for associated costs; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted into evidence a copy of a tenancy agreement signed by the parties on March 6, 2011 for a 1 year fixed term tenancy beginning on March 1, 2011 that converted to a month to month tenancy on March 1, 2012 with a monthly rent of \$900.00 due on the 1<sup>st</sup> of each month with a security deposit of \$450.00 paid.

The parties agree the tenancy ended when the tenant vacated the rental unit. The landlord is unsure as to what date the tenant vacated but believes it to be December 3, 2013. The tenants have provided into evidence a copy of their notice to the landlord of their intention to end the tenancy; a receipt for their e-transfer to the landlord of \$450.00 for November rent and a copy of a receipt for their moving truck that shows they returned the truck on December 2, 2013.

The landlord seeks compensation for the balance of rent owed for the month of November 2013 and for at least 3 days of overholding at a rate of \$31.67 per diem based on a monthly rate of \$950.00 for a 30 day period.

Analysis

From the evidence provided by both parties I find the tenant failed to pay the full rent for the month of November 2013 and the landlord is entitled to compensation in the amount of \$450.00.

I also find, based on the evidence and testimony of both parties that the tenant overheld the property. As the landlord was uncertain as to how long the tenant overheld the property I have my determination on the tenant return of their rental truck for moving. As they returned it on December 2, 2013 I find the tenant overheld for 2 days.

As to the per diem amount used to calculate the overholding charges, I based the amount on the amount of rent according to the tenancy agreement. As rent in the tenancy agreement was \$900.00 I find the per diem rate to be \$30.00. As such, I find the landlord is entitled to \$60.00 for overholding.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant the landlord a monetary order in the amount of **\$560.00** comprised of \$450.00 rent owed; \$60.00 overholding and the \$50.00 fee paid by the landlord for this application.

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: January 22, 2014

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Residential Tenancy Branch

