



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding AMOS REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** MNR, FF

### **Introduction**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act*, for a monetary order for unpaid rent and for the recovery of the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to a monetary order for unpaid rent and for the filing fee?

### **Background and Evidence**

The tenancy started on November 06, 2012 for a fixed term of one year and ended on November 30, 2013. The monthly rent was \$975.00 due on the first of each month. Prior to moving in the tenant paid a security deposit of \$487.50.

For the last month of tenancy, the tenant paid half a month's rent and requested the landlord to use the security deposit for the balance of rent. The landlord testified that he refused to do so because he wanted to keep the security deposit in trust, to cover any repairs that may be needed. As of this date, March 20, 2014, which is almost four months after the tenancy ended, the landlord has not yet made repairs.

I attempted to get the parties to settle the dispute which would end the matter immediately and relieve both parties of the work associated with going to another hearing. The landlord was adamant that he wanted to apply for damages and was not interested in coming to settlement.

The landlord has requested that I grant him a monetary order for a half month's rent and grant him leave to reapply for damages. He also requested that he be allowed to keep the security deposit and apply it towards damages that will be determined at the next hearing.

### **Analysis**

Section 21 of the *Residential Tenancy Act* states that unless the landlord gives written consent, a tenant must not apply a security deposit as rent. Based on the testimony of both parties, I find that in this case the tenant used his security deposit towards the last month's rent and therefore the landlord is entitled to \$487.50 for rent.

I order that the landlord retain the security deposit of \$487.50 towards rent for the last month of the tenancy.

The landlord has not made a claim for damages and I find that since the tenancy has ended, the landlord could have dealt with his claims for damages and rent in a single application. The landlord chooses to make a separate claim for damages and therefore he must bear the cost of filing this application.

### **Conclusion**

The landlord may retain the security deposit towards unpaid rent. The landlord is at liberty to make application for damages within the legislated time frame.

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: March 20, 2014

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Residential Tenancy Branch

