



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNR, 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 and both tenants.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 26, 45, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord testified the tenancy began on as a month to month tenancy for the monthly rent of \$900.00 due on the 1<sup>st</sup> of each month. The tenants testified the tenancy began on April 1, 2011.

The landlord submits that on March 4 or 5 2013 the tenant paid her March 2013 rent and advised the landlord that she would be vacating the rental unit by April 15, 2013. The landlord also submits that on March 31, 2013 the tenant provided the landlord with a cheque for \$553.41 for \$103.41 (March utilities) and \$450.00 for ½ month's rent from April 1 to 15 2013.

The tenants submit that one of the tenants had completed some work for the landlord on the property that included building a patio. The tenants submit that the tenant had completed about 136.5 hours of work. The tenants testified the landlord had agreed to take money off the rent for this work. The landlord testified that he had never made such an arrangement with the tenants.

The tenants agreed that they owed the landlord the rent but that they had planned to file a counterclaim against the landlord for compensation for the work completed. The

tenants confirmed that they had not yet done so (a year after the tenancy ended) because they haven't gotten around to it yet.

### Analysis

Section 26(1) of the *Act* states a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the *Act*, the regulations or the tenancy agreement, unless the tenant has a right under the *Act* to deduct all or a portion of the rent.

When parties agree to terms of a verbal agreement there is no reason why such an agreement cannot be enforceable, however when the parties disagree on what the terms of the agreement were it is virtually impossible for a third party to determine what the terms were. As such, the burden falls to the party making the claim that they had such an agreement to provide additional evidence to support their claim.

As the tenants have provided no evidence that they had an agreement with the landlord for a reduced rent for any work completed on the property such as a written agreement and because the landlord disputes that any such agreement existed I find that the tenants have failed to establish the landlord had agreed to a rent reduction, in particular for the month of April 2013.

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 there is no evidence before me that the landlord had failed to comply with a material term of a tenancy agreement or that the tenant had informed her of one I find the tenant could not end the tenancy under Section 45(3).

From the testimony of both parties I find that despite not having a written tenancy agreement the parties had agreed that rent was due on the 1<sup>st</sup> of each month. As such, to be compliant with Section 45(1) the earliest the tenant could have ended the tenancy by giving notice to the landlord on any date in March 2013 would have been April 30, 2013.

As such, even if the tenants have a valid claim against the landlord for any monies owing to them Section 26 required that the tenants pay the rent for the month of April 2013 in full on or before April 1, 2013.

I accept the landlord's undisputed testimony that the tenants failed to pay rent for the full month of April 2013 and he is entitled to receive the balance of \$450.00 owing.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$500.00** comprised of \$450.00 rent owed and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenants. If the tenants fail 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: May 15, 2014

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Residential Tenancy Branch

