



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNDC, MNSD, MND, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order for unpaid rent, for damage to the unit, and for money owed or compensation for loss or damage under the Act, Regulation, or tenancy agreement; to keep all or part of the pet deposit and/or security deposit; and to recover the RTB filing fee.

Both the landlord and tenants attended the teleconference hearing and gave affirmed evidence.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, for damage to the unit, and for money owed or compensation for loss or damage under the Act, Regulation, or tenancy agreement?

Is the landlord entitled to retain the security deposit and/or pet deposit?

### Background and Evidence

The tenancy agreement signed by the parties on June 21, 2011 indicates the tenancy started August 1, 2011 and was for a fixed term ending June 30, 2012. The tenants were obligated to pay rent of \$2,500.00 monthly in advance on the first day of the month. The tenants also paid a security deposit of \$1,250.00 and a pet deposit of \$625.00.

The landlord gave evidence that he served the tenants with a notice to end tenancy for unpaid rent (the "Notice") dated February 20, 2012 with an effective date of March 1, 2012. The Notice specified the tenants failed to pay rent of \$2,500.00 that was due February 1, 2012. The landlord gave evidence that in fact the tenants did not pay \$1,250.00 of January 2012 rent and did not pay anything toward February 2012 rent.

The total amount owing at the date of the Notice was actually \$3,750.00. The landlord's evidence is that the tenants made no further payments and moved out March 1, 2012.

The landlord gave evidence they advertised for new prospective tenants in the first week of March, saying the property was available immediately. They advertised on websites including Craigslist and Kijiji and found new tenants for May 1, 2012. The landlord claims rental losses for the months of March and April 2012 of \$2,500.00 per month.

The landlord's evidence is that the tenants had not removed all of their belongings from the house on March 1, 2012. The landlord spoke with the male tenant about 12 times in March and April 2012, and says the male tenant seemed willing to pay the rent and remove the furniture.

The landlord also claims costs of cleaning and repairing damage to the property in the amount of \$4,322.00, RTB filing fees of \$100.00, and NSF fees of \$150.00. The landlord's total claim is \$14,222.00.

The landlord gave evidence that he did not receive a forwarding address in writing from the tenants. He was able to serve the Notice of a Dispute Hearing and Landlord's Application for Dispute Resolution by researching the tenants' address through a previous employer.

The female tenant says she has the same telephone number and email address, and so the landlord could have contacted her regarding his claim before now.

### Analysis

Section 60(1) of the Act states:

"If this Act does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned."

In this case, I find the tenancy ended on March 1, 2012 which was the effective date of the Notice and the date the tenants moved out. The landlord did not file his Application for Dispute Resolution until April 22, 2014, more than two years later. Since the application was not made within two years of the date the tenancy ended, I dismiss the landlord's application.

Section 39 of the Act says:

“Despite any other provision of this Act, if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy,

- (a) the landlord may keep the security deposit or the pet damage deposit, or both, and
- (b) the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.”

I find the tenants did not provide the landlord with their forwarding address in writing within one year of the end of tenancy. For that reason, the landlord is entitled to keep the security deposit and the pet deposit.

#### Conclusion

The landlord’s application is dismissed. The landlord may retain the security deposit and the pet deposit.

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 18, 2014

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Residential Tenancy Branch

