



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND MNR MNSD MNDC FF

### Introduction

This hearing dealt with monetary applications by the landlord and the tenant. Both the landlord and the tenant participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Is the tenant entitled to monetary compensation as claimed?

### Background and Evidence

The rental unit is the upper suite in a house with a separate basement suite. The tenancy began on May 1, 2013 as a fixed term tenancy to end on April 30, 2014. Rent in the amount of \$1400 was payable in advance on the first day of each month. The tenancy agreement is silent in regard to what portion of utilities the tenant must pay. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$700. On May 1, 2013 the tenant and the landlord's agent did a move-in inspection but the landlord's agent did not fill out a condition inspection form.

On February 28, 2014 the landlord served the tenant with a one-month notice to end tenancy for cause. On March 4, 2014 the tenant gave the landlord written notice that he accepted the notice and would be vacating the property on March 31, 2014. The tenancy ended on March 31, 2014.

On April 8, 2014 a hearing was convened pursuant to applications by the landlord and the tenant. The landlord had applied on March 20, 2014 for monetary compensation of \$2752.25 for “expenses [the landlord had] incurred relating to utilities.” The landlord did not submit a breakdown of his monetary claim in that application. The tenant attended this earlier hearing but the landlord did not. The landlord’s application was dismissed without leave to reapply and the tenant was granted a monetary order of \$776 for overpayment of hydro. On April 23, 2014 the landlord applied for a review of the April 8, 2014 decision, but his review application was dismissed and the decision and order were confirmed.

On April 11, 2014 the landlord and the tenant attended at the rental unit to do a move-out inspection. On April 23, 2014 the landlord applied to keep the security deposit.

### *Landlord’s Evidence*

In his application the landlord claimed monetary compensation of \$3260.18. In his evidence the landlord submitted a detailed calculation of his claim that totals \$4107.18, an increase of \$847. The landlord did not submit or request an amendment to increase his claim by this amount.

The landlord claimed the following:

- 1) \$1400 in lost revenue for April 2014 – the landlord submitted that he was unable to find a new tenant for this month, the last month of the fixed term;
- 2) \$739.49 representing 80 percent of the hydro costs – the landlord stated that the original agreement was for the tenant to pay 70 percent of the hydro costs, but the landlord increased that amount to 80 percent as the tenant had “unauthorized tenants on site using an increased amount of utilities”;
- 3) \$1670 for repairs – the landlord stated that the tenant left the suite damaged at the end of the tenancy. The landlord stated that though there was no move-in condition inspection report done, the tenant emailed the landlord after the move-in inspection to indicate that he had no problems with the unit;
- 4) \$50 recovery of filing fee for previous application;
- 5) \$29.69 for printing photographs as supporting evidence; and
- 6) \$15 for estimated registered mail costs.

The landlord submitted photographs, invoices and receipts to support his claims. The landlord did not submit a move-out condition inspection report.

In response to the tenant's claim, the landlord stated that he received the tenant's forwarding address in writing on April 14, 2014, and as he made his application on April 23, 2014 the tenant was therefore not entitled to double recovery of the security deposit.

### *Tenant's Evidence*

The tenant applied for recovery of the security deposit of \$700, on the basis that at the time of his application, May 6, 2014, the landlord had not yet returned the security deposit to the tenant.

In response to the landlord's application, the tenant stated as follows. The tenant stated that at the outset of the tenancy the tenant agreed to pay 70 percent of the hydro. The tenant stated that he was paying all of the hydro and he asked the landlord to reimburse him 30 percent, but the landlord refused. The tenant stated that he accepted the landlord's notice to end tenancy and gave written notice that he would vacate on March 31, 2014, so the landlord should not be entitled to lost revenue for April 2014. The tenant stated that when he met the landlord at the rental unit on April 22, 2014 to do a move-out inspection, the landlord was already doing renovations to the unit. The tenant denied doing any damage to the unit.

### Analysis

Upon consideration of the evidence and on a balance of probabilities I find as follows.

### *Landlord's application*

I find that the landlord is not entitled to any of his claim.

The landlord did not provide evidence that he attempted to re-rent the unit for April 2014. I accept the tenant's testimony that the landlord was renovating the unit.

The issue of the hydro was at least partially addressed in a previous hearing and decision, and I cannot alter a determination that has already been made. It is not clear from the landlord's application which if any of his new application is an amount for hydro that was not previously claimed. Further, the landlord cannot unilaterally change the amount of hydro for which the tenant is responsible.

The landlord provided no move-in or move-out condition inspection report to establish the condition of the rental unit at the beginning or the end of the tenancy, and therefore he cannot establish that the tenant caused any damage. The landlord submitted a quote

dated April 22, 2014 for the cleaning and repair costs, but did he not confirm the actual amounts paid for any cleaning or prove that the work was done.

The landlord cannot claim recovery of a filing fee for a previous application. Further, an applicant is responsible for their own costs related to the dispute resolution process, other than the filing fee for that application. The landlord did not apply for recovery of the filing fee for this application.

#### *Tenant's Application*

I accept the evidence of the landlord that he received the tenant's forwarding address in writing on April 14, 2014 and he made his application to keep the deposit on April 23, 2014. Therefore, as the landlord made his application within the 15-day deadline, the security deposit is not doubled. The tenant is, however, entitled to recovery of the base amount of the security deposit.

#### *Filing Fees*

As the tenant's application was successful, he is entitled to recovery of the \$50 filing fee for the cost of his application.

#### Conclusion

The landlord's application is dismissed.

I grant the tenant an order under section 67 for the balance due of \$750. This order may be filed in the Small Claims Court and 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 26, 2014

---

Residential Tenancy Branch

