



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNSD, FF

### Introduction

This hearing was convened by conference call in response to an Application for Dispute Resolution (the “Application”) made by the Landlord for permission to keep all of the Tenant’s security and pet damage deposits for unpaid rent. The Landlord also applied to recover the filing fee from the Tenant for the cost of the Application.

The Landlord appeared for the hearing and provided affirmed testimony. The Landlord provided no written evidence prior to the hearing in order to prove that a tenancy existed between the parties. As a result, I allowed the Landlord to submit documents (a copy of the Condition inspection receipt, evidence of rental payments, the Tenant’s e-mail notice to end the tenancy), after the hearing had concluded in accordance with Rule 3.17 of the Rules of Procedure. I find that the consideration of this written evidence would not have been prejudicial to the Tenant as the Tenant would have been aware of the documents.

There was no appearance by the Tenant during the 25 minute duration of the hearing or any submission of written evidence. The Landlord’s agent testified that the Tenant was served with a copy of the Application and the Notice of Hearing documents by registered mail on June 12, 2014. The Landlord’s agent provided the Canada Post tracking number as evidence for this method of service which was sent to the Tenant’s forwarding address provided to the Landlord. Section 90(c) of the Act provides that a document served by mail is deemed to have been received five days later. A party may not avoid service through a failure or neglect to pick up mail and this cannot form reasons alone for a review of this decision. Therefore, I find that the Tenant was deemed served with documents for this hearing on June 17, 2014

As a result, the hearing continued in the absence of the Tenant and I carefully considered the Landlord’s undisputed oral and written evidence in this decision.

Issue(s) to be Decided

- Is the Landlord entitled to keep the Tenant's security and pet damage deposit in full satisfaction of the Landlord's claim for unpaid rent?

Background and Evidence

The Landlord testified that this month to month tenancy started on September 1, 2012. Rent was established in the amount of \$900.00 payable by the Tenant on the first day of each month. The Tenant paid a security deposit and a pet damage deposit in the amount of \$450.00 each which the Landlord still retains.

The Landlord testified that on May 14, 2014, he received an email from the Tenant informing him that she would be ending the tenancy at the end of May, 2014. A copy of this e-mail was provided in written evidence.

The Landlord attended the rental unit on June 1, 2014 to complete a condition inspection report but the Tenant failed to do one. A verbal altercation occurred during which the Tenant verbally provided the Landlord with her forwarding address. The Landlord made note of the Tenant's forwarding address and made the Application on June 4, 2014.

The Landlord claims for June, 2014 rent because the Tenant did not vacate the rental suite until June 1, 2014 and did not provide sufficient notice to end the tenancy.

Analysis

Section 45(1) of the Act requires that a Tenant must provide at least one full rental month of notice before ending a month to month tenancy. Based on the oral and written evidence of the Landlord, I find that the Tenant failed to provide sufficient notice to end the tenancy in accordance with the Act.

Policy Guideline 3 to the Act provides that in these cases, the Landlord would be entitled to sufficient compensation equating to the earliest time the Tenant could have legally ended the tenancy. Therefore, if the Landlord was provided notice to end the tenancy in May, 2014, the earliest she could have vacated the rental unit would have been at the end of June, 2014.

Therefore, I find that the Landlord is entitled to lost rent for June, 2014 in the amount of \$900.00.

While I find that the Tenant did not provide the Landlord with a forwarding address in **writing**, I find that the Tenant provided this verbally to the Landlord who documented this in writing. I also find that the Landlord made the Application to keep the Tenant's security deposit within the 15 day time limit imposed by Section 38(1) of the Act.

Based on the foregoing, I find that the Landlord is entitled to keep the Tenant's security and pet damage deposit in the amount of \$900.00.

The Landlord withdrew his claim to recover the filing fee as he had no intention of pursuing the Tenant for the \$50.00 cost.

### Conclusion

For the reasons set out above, I order the Landlords to keep the Tenant's security and pet damage deposit in the amount of \$900.00 in full satisfaction of the Landlord's award for lost rent.

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: October 08, 2014

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Residential Tenancy Branch

