



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

MNDC, MNSD

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss and to keep all or part of the security deposit.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

On June 06, 2014 the Landlord submitted numerous documents to the Residential Tenancy Branch, which the Landlord wishes to rely upon as evidence. The Landlord stated that these documents were served to the Tenant by registered mail on June 06, 2014. The Tenant acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

### Issue(s) to be Decided

Is the Landlord is entitled to retain all or part of the security deposit in compensation for lost revenue?

### Background and Evidence

The Landlord and the Tenant agree that on May 28, 2014 they agreed, via text messages, that the Tenant would rent this rental unit, beginning on June 15, 2014 and that the Tenant would pay monthly rent of \$2,000.00 for the unit. The parties agree that they subsequently agreed to change the start date from June 15, 2014 to June 03, 2014.

The Landlord and the Tenant agree that on June 03, 2014 the Tenant informed the Landlord she did not wish to move into the rental unit; that she was never provided with keys to the unit; and that she did not move into the rental unit.

The Landlord and the Tenant agree that on May 31, 2014 the Tenant paid a security deposit of \$1,000.00.

The Landlord stated that he was able to re-rent the lower portion of this rental unit for June 15, 2014 for \$500.00. He stated that he experienced lost revenue of \$1,500.00 for the month of June, for which he is seeking to retain the security deposit of \$1,000.00.

The Tenant stated that she does not think the Landlord should be permitted to keep the security deposit because she did not damage the rental unit, and the deposit was for damages; she did not have a written contract for the rental unit; and she decided to try to make her marriage work, so she did not need to move into the rental unit.

### Analysis

The *Residential Tenancy Act (Act)* defines a “tenancy agreement” as an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a license to occupy a rental unit. On the basis of the undisputed evidence, I find that the Tenant and the Landlord entered into an oral tenancy agreement for this rental unit, which was to begin on June 03, 2014 and for which the Tenant would pay monthly rent of \$2,000.00. I therefore find that both parties were obligated to comply with the terms of that tenancy agreement and with the *Act*.

In reaching this conclusion I was heavily influenced by the undisputed evidence that a security deposit was paid, which I find clearly expresses intent to enter into a tenancy agreement. In reaching this conclusion I was further influenced by the text messages submitted in evidence, in which the parties agree to the tenancy.

Section 45 of the *Act* stipulates that a tenant may end a periodic tenancy by providing the landlord with written notice to end the tenancy on a date that is not earlier than one month after the date the Landlord received the notice and is the day before the date that rent is due. As the Tenant entered into an oral tenancy agreement with the Landlord, I find that she was obligated to end this tenancy in compliance with section 45 of the *Act*.

As the Tenant did not provide the Landlord with written notice to end the tenancy on a date that is not earlier than one month after the date the Landlord received the notice and is the day before the date that rent is due, I find that the Tenant was obligated to pay rent for June of 2014, in the amount of \$2,000.00. As the Landlord is only seeking to retain the security deposit of \$1,000.00 in compensation for the unpaid rent, I find that the Landlord is entitled to retain the deposit in compensation for the unpaid rent, pursuant to section 72(2) of the *Act*.

### Conclusion

The Landlord has established the right to retain the security deposit of \$1,000.00.

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 06, 2014

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Residential Tenancy Branch

