



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing. Both parties agreed to adjourn the matter in attempts to come to an agreed amount of unpaid rent. On the first hearing date both parties advised that the tenant had vacated the unit. Both parties gave affirmed evidence.

### Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

### Background and Evidence

The landlord gave the following testimony:

The tenancy began on or about October 1, 2011. Rent in the amount of \$1400.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected a security deposit of \$700.00. The tenant failed to pay rent in the month(s) of April 2014- September 2014 and on September 25, 2014 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of October. The landlord stated that the tenant vacated the unit sometime in October but was not given notice by the tenant when she did. The landlord stated that

the tenant had made partial payments for use and occupancy only and that as of today's hearing the amount sought by the landlord is \$4317.28 for unpaid rent.

The tenant gave the following testimony:

The tenant stated that she disputes the amount sought by the landlord. The tenant stated that she believes she only owes for the month of September. The tenant stated that she shouldn't have to pay for the month of October since she didn't live there for the whole month.

### Analysis

As the tenant has vacated the unit an order of possession is no longer required and accordingly I dismiss that portion of the landlords' application.

In regards to the monetary order, I accept the testimony of the landlord that the tenant did not vacate the unit until sometime in October. When the tenant was asked as to when she moved out, she was very unclear and kept changing which day she had vacated the unit. In addition, when the tenant was asked how she made payments she would give an answer and then change that answer and give a different version of events. I asked the tenant several times how the rent was paid and when; she gave three different answers. I find the tenants testimony to be unreliable. The landlord was clear about amounts sought and dates of payments. Based on the above I find that the landlord is entitled to \$4317.28.00 in unpaid rent.

As for the monetary order, I find that the landlord has established a claim for \$4317.28 in unpaid rent. The landlord is also entitled to recovery of the \$100.00 filing fee. I order that the landlord retain the \$700.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3617.28. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order for \$3617.28. The landlord may retain the security 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: December 16, 2014

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Residential Tenancy Branch

