



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

MNR, MNSD, MNDC

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties were represented at the conference call hearing.

At the hearing, the tenants asked that the landlord's claim be dismissed because he did not serve documents properly. As the tenants had notice of the claim against them and adequate opportunity to respond to that claim, I determined that there was no unfairness to the tenants and I declined to dismiss the claim.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The parties agreed that the tenancy began on October 1, 2012, that rent was set at \$800.00 per month and that the tenants paid a \$400.00 security deposit.

The landlord testified that the tenants failed to pay rent in June 2014 and did not vacate the rental unit until approximately July 6, 2014, causing the landlord to lose income for June and July. The landlord testified that they began advertising the rental unit after the tenants vacated the property but were unable to re-rent the unit for the month of July.

The tenants testified that they paid the landlord \$400.00 in cash for the month of June but did not receive a receipt. The tenants further testified that the landlord re-rented the suite in July as they witnessed people moving into the unit on or about July 15.

The landlord testified that the tenants left the rental unit in an unclean condition and left nail holes in the walls which resulted in the landlord spending \$400.00 for repairs. The tenants denied these allegations.

### Analysis

When a landlord alleges that rent has not been paid, the burden lies with the tenants to prove that rent has been paid. The tenants claim to have paid \$400.00 of their rent for June but were unable to provide evidence such as a receipt, a witness statement or a bank statement showing that cash had been withdrawn for the purpose of paying rent. Without any evidence to corroborate their claim, I find that the tenants have not met the burden of proving that rent was paid. I find that the tenants are liable for \$800.00 in rent for the month of June and I award the landlord that sum.

The landlord bears the burden of proving that he has taken reasonable steps to minimize his losses. The landlord testified that the unit was advertised throughout July and that new tenants were not secured until after July had passed, but he did not provide evidence such as copies of his advertisements or a copy of the new tenancy agreement to support his claim. I am unable to find that the landlord lost rent for the entire month of July and therefore find it appropriate to award the landlord one half month's rent. I award the landlord \$400.00.

The tenants were obligated to leave the unit in reasonably clean condition and were entitled to hang pictures on the walls during their tenancy so were permitted to leave behind a reasonable number of holes in the walls. The landlord provided no photographs to show the condition of the unit and I am unable to determine whether the unit was reasonably clean. I find that the landlord has failed to prove the claim for the cost of cleaning and I dismiss the claim.

As the landlord has been substantially successful in his claim, I find that he should recover the \$50.00 filing fee paid to bring his application and I award him that sum.

### Conclusion

The landlord has been awarded \$1,250.00. I order him to retain the \$400.00 security deposit in partial satisfaction of the claim and I grant him a monetary order under section 67 for the balance of \$850.00. This order may be filed in the Small Claims Division of the Provincial 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: December 10, 2014

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Residential Tenancy Branch

