



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Hollyburn Estates Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, MNSD, FF

### Introduction

This is a Review Hearing Granted for the landlord's Application for Dispute Resolution. The landlord seeks an order of possession and a monetary order for unpaid rent, for money owed or compensation or damage or loss, to keep all or part of the security deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence of the other party, I am satisfied that both parties have been properly served.

### Preliminary Matter(s)

The tenant, T.G. states that he should not be listed as a respondent as he was only acting as a guarantor on the signed tenancy agreement.

T.G. states that he was told verbally by the agent, A.P. on the date the tenancy agreement was signed that he could request to have his name removed from the rental agreement after two months. T.G. stated that he made a request in writing on September 22, 2014 to be removed as a guarantor. T.G. states that as per the letter, he did not receive a response by September 30, 2014 and accepted that this was accepted by the landlord. T.G. states that he has proof of service of the September 22, 2014 letter, but that he can only provide it within 24 hours after the hearing.

The landlord disputes the tenant, T.G.'s claims. The landlord states that a guarantor is accepted solely to protect the landlord so that rent can be collected. The landlord's agent, A.P. stated that she has a personal relationship with the tenant, J.G. and to avoid any issues she was not present during the signing of the tenancy agreement. A.P. stated another agent entered into the agreement with the two named tenants as shown by the signed copy submitted.

The landlord referred to section 3.15 Entire Agreement of the signed tenancy agreement which states,

“This Agreement constitutes the entire Agreement between Landlord and Tenant. No oral agreements have been entered into, and all modifications or notices shall be in writing to be valid...”

The landlord also states that had T.G. been accepted as a guarantor it would have been noted on the agreement and he would only be removed upon review of the tenant J.G.'s current financial records and only then would a new written agreement be made to remove T.G. from the agreement with the landlord. The landlord states that no such letter dated September 22, 2014 was received from T.G. as a withdrawal as a guarantor.

Upon Review of the signed tenancy agreement, I find that there are no representations or notes in the signed agreement that T.G. was only acting as a guarantor and not as a tenant. T.G. has failed to provide sufficient evidence to satisfy me that an agreement was made with the landlord for his role solely as a guarantor. As well, T.G. has not provided sufficient evidence to satisfy me that the letter dated September 22, 2014 requesting his removal as a guarantor was properly served and received by the landlord. I find that the tenant, T.G.'s request to be removed as a respondent from the landlord's application is denied.

The landlord clarified during the hearing that the tenant had vacated the rental unit on November 2, 2014. As such, the hearing shall proceed on the landlord's monetary claim.

#### Issue(s) to be Decided

Is the landlord entitled to a monetary order?  
Is the landlord entitled to retain the security deposit?

#### Background and Evidence

This tenancy began on May 5, 2014 on a fixed term tenancy ending on May 31, 2015 as shown by the submitted copy of the signed tenancy agreement dated April 8, 2014. The monthly rent was \$1,745.00 payable on the 1<sup>st</sup> of each month and a security deposit of \$872.50 was paid on April 30, 2014.

The landlord seeks a monetary claim of \$4,910.00 which consists of \$1,345.00 in unpaid rent for August, a \$25.00 late rent fee, \$1,745.00 in unpaid rent for September, a \$25.00 late rent fee, \$1,745.00 in unpaid rent for October and a \$25.00 late rent fee. The landlord states that this is an amended amount as the landlord has received payment from the tenants totalling, \$400.00 after the tenancy ended.

The tenant, T.G. states that he is not disputing the landlord's claims prior to September 22, 2014. The tenant, T.G. provided no comment on the landlord's monetary claim.

### Analysis

I accept the undisputed evidence of both parties and find that the landlord has established a claim for unpaid rent of \$4,910.00 as outlined by the landlord. The landlord has submitted a copy of a 10 day notice to end tenancy issued for unpaid rent dated August 11, 2014. The tenant did not dispute the claims of unpaid rent by the landlord, nor did the tenant file an application for dispute resolution. The tenants were conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. The tenant did not vacate the rental unit until November 2, 2014 when keys to the rental unit were found in the landlord's mailbox.

Compensation has been established by the landlord for \$4,910.00.

\$1,345.00 unpaid rent August	\$25.00 late rent fee
\$1,745.00 unpaid rent September	\$25.00 late rent fee
\$1,745.00 unpaid rent October	\$25.00 late rent fee

The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$872.50 security deposit in partial satisfaction of the claim and I grant a monetary order under section 67 for the balance due of \$4,087.75.

### Conclusion

The landlord is granted a monetary order for \$4,087.50.  
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: February 03, 2015

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Residential Tenancy Branch

