



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HARRON INVESTMENTS INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1312 in order to enable the tenant to connect with this teleconference hearing scheduled for 1300. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord was represented by its agent who is an employee of the landlord.

The agent testified that the landlord served the tenant with the dispute resolution package on 24 December 2014 by registered mail. The agent provided me with a Canada Post tracking number that showed the same. On the basis of this evidence, I am satisfied that the tenant was deemed served with the dispute resolution package pursuant to sections 89 and 90 of the Act.

### Preliminary Issue – Legal Landlord

The landlord's name on the tenancy agreement and notice of rent increase provided by the landlord do not match the name provided by the landlord in its application.

The agent testified that, on or about 18 December 2014, the landlord purchased the residential property from the former landlord. The former landlord's name is set out on

both the tenancy agreement and notice of rent increase. It is the landlord's name that this application is made.

Section 1 of the Act defines landlord:

“landlord”, in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
  - (i) permits occupation of the rental unit under a tenancy agreement, or
  - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);

The definition of landlord includes a successor in title to an owner of a rental unit. This means that once a property is sold, the buyer becomes the new landlord and the tenancy continues under the same terms. The buyer and the tenants do not need to sign a new tenancy agreement in order for the obligations and rights of a landlord to transfer to the buyer.

I find that the landlord is the legal landlord of the rental unit and entitled to make applications to the Residential Tenancy Branch.

#### Issue(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

#### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the agent, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below.

This tenancy began 1 December 2012. The landlord provided me with a copy of the written tenancy agreement and the only notice of rent increase that has been issued. Current monthly rent is \$1,080.00 and is due on the first. The agent testified that the

landlord continues to hold the tenant's security deposit in the amount of \$530.00, which was collected 22 November 2012.

The agent testified that the tenant did not ever provide written notice that she was vacating the rental unit. The only communication the agent had from the tenant was that the tenant "might" move out in late-December. This verbal communication occurred in mid-November. The agent testified that she told the tenant to provide the landlord one-month's notice.

The tenant never confirmed that she was leaving, but began to move out. The agent received the keys back from the tenant on 15 December 2014. The agent testified that the tenant paid half a month's rent for December. The agent testified that she found new tenants that began occupying the rental unit on 1 January 2015.

The landlord seeks recovery of \$540.00 for half of December's rent as well as recovery of the \$50.00 filing fee.

### Analysis

Subsection 45(1) of the Act sets out that:

A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

- (a) is not earlier than one month after the date after the landlord receives the notice, and
- (b) is before the day in the month...that rent is payable under the tenancy agreement.

Without dealing with the sufficiency of the tenant's verbal notice, the earliest the tenant could have ended the tenancy by providing notice in November was 31 December 2014.

Thus, the tenant had an obligation to pay December's rent in full. I accept that the landlord only received one half of the owed amount. I find that the landlord has proven its entitlement to the remaining rent: \$540.00.

The landlord applied to keep the tenant's security deposit. I allow the landlord to retain the security deposit in partial satisfaction of the monetary award. No interest is payable.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$60.00 under the following terms:

<b>Item</b>	<b>Amount</b>
Unpaid December Rent	\$540.00
Offset Security Deposit Amount	-530.00
Recovery of Filing Fee for this Application	50.00
<b>Total Monetary Order</b>	<b>\$60.00</b>

The landlord is provided with these orders in the above terms and the tenant(s) must be served with this order as soon as possible. Should the tenant(s) fail to comply with these orders, these orders may be filed in the Small Claims Division of the Provincial Court and enforced as orders of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: March 12, 2015

---

Residential Tenancy Branch

