



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, FF

### Introduction

This hearing dealt with a landlord's application for a Monetary Order for unpaid rent. The tenant did not appear at the hearing. The landlord submitted that the tenant was served with notification of this proceeding by way of registered mail sent to her at the rental unit on March 19, 2015. The landlord orally provided a registered mail tracking number and testified that the registered mail was returned to him as unclaimed. The landlord affirmed that the tenant was still residing at the rental unit on March 19, 2015.

Section 90 of the Act deems a party to receive documents five days after mailing even if the recipient refuses to accept or pick up their mail. Based upon the undisputed evidence before me, I found the tenant was deemed to have been served with the hearing documents and I continued to hear from the landlord without the tenant present.

In filing this Application, the landlord indicated he was seeking an Order of Possession and Monetary Order for unpaid rent; however, the landlord advised that the property has been sold. As such, the landlord withdrew his request for an Order of Possession and I amended the application accordingly.

During the hearing, I ordered the landlord to provide me with certain documents pertaining to the sale of the property and email communications from his property manager concerning attempts to collect the unpaid rent. The landlord provided the requested documentation shortly after the teleconference call ended and I have considered it in making this decision.

### Issue(s) to be Decided

Is the landlord entitled to recover unpaid rent of \$1,500.00 from the tenant for the months of February and March 2015?

### Background and Evidence

The landlord and tenant executed a tenancy agreement for a one year fixed term tenancy that commenced November 1, 2013 and then converted to a month to month tenancy. Under the tenancy agreement, the tenant is required to pay rent of \$800.00 on the 1<sup>st</sup> day of every month. The tenant paid a security deposit of \$400.00. The rental unit is the lower unit in a house.

The landlord testified that the tenant was often late paying rent and he had to serve her with a number of 10 Day Notices during the tenancy. At the end of January 2015 the tenant paid the January 2015 rent and \$100.00 towards rent for February 2015. The tenant did not pay the balance of February 2015 rent and did not pay rent that was due for March 2015. On March 4, 2015 the landlord had his property manager, the upper suite tenant, serve the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent on his behalf. The tenant did not pay the outstanding rent of \$1,500.00 and on March 10, 2015 the property was sold to a third party.

The landlord provided a copy of the Seller's Statement of Adjustments showing the property was sold to a third party as of March 10, 2015 and that the security deposit was transferred to the purchaser. The Statement of Adjustments also shows that the purchaser was credited with rent for the days of March 10 – 31, 2015 at the expense of the seller (the landlord in this case).

The landlord provided copies of email and text message communications from the upper suite tenant's cell phone and email account. In a text message dated March 9, 2015 the sender indicates she is the tenant – the landlord explained that the tenant did not have an email account or cell phone and would use the upper suite tenant's phone – and in that text message the tenant indicates she would have \$900.00 for the landlord on March 25, 2015. The landlord testified that the tenant did not give him the money on March 25, 2015 or at any other time.

The landlord maintained that the tenant never paid the rent owed to him for the months of February 2015 and March 2015 and by way of this Application the landlord seeks a Monetary Order for \$1,500.00 to recover this unpaid rent from the tenant.

### Analysis

Under the Act, the definition of “landlord” includes a former landlord where applicable. Based upon the evidence before me, I find the applicant meets the definition of landlord since he is claiming for unpaid rent for February and March 2015 when he was the owner of the property and entitled to receive rent from the tenant.

Pursuant to the tenancy agreement, the tenant was required to pay the landlord \$800.00 per month for the months of February 2015 and March 2015. I accept the undisputed evidence before me that the tenant failed to pay the landlord rent for these months with the exception of \$100.00 that was paid at the end of January 2015.

Since the purchaser of the property was credited with rent for the rental unit for the days of March 10 – 31, 2015 at the expense of the seller (the landlord in this case) I find the landlord’s rental loss for the month of March 2015 is the entire amount of \$800.00 even though he was the landlord only up to March 10, 2015.

In light of the above, I grant the landlord’s request to recover unpaid rent from the tenant in the amount of \$1,500.00 as claimed. I further award the landlord recovery of the filing fee paid for this Application. Therefore, I provide the landlord with a Monetary Order in the amount of \$1,550.00 to serve upon the tenant and enforce as necessary.

### Conclusion

The landlord has been provided a Monetary Order in the sum of \$1,550.00 to serve and enforce upon the tenant.

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: April 24, 2015

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Residential Tenancy Branch

