



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Sutton Group Medallion Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: OPR, MNR, MNDC, MNSD, FF

### Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent or utilities / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

As the tenants vacated the unit in June 2014, I consider the landlord's application for an order of possession to be withdrawn.

### Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

Pursuant to a written tenancy agreement the tenancy began on September 01, 2012. Monthly rent of \$3,100.00 is due and payable in advance on the first day of each month, and a security deposit of \$1,550.00 was collected.

The landlord issued a 10 day notice to end tenancy for unpaid rent or utilities dated May 27, 2014. The notice was personally served on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is June 05, 2014. Subsequently, the tenants made no further payment toward rent or utilities and they vacated the unit on June 15, 2014. Thereafter, by email dated September 04, 2014, the tenants provided their forwarding address. The landlord's application for dispute resolution was then filed on September 11, 2014.

During the hearing, male tenant "CG" testified that the tenants do not dispute the landlord's claim for unpaid rent for 2014 in the total amount of **\$12,890.00**, as follows:

\$490.00: *January*  
\$12,400.00: *(4 x \$3,100.00) February, March, April & May*

Tenant "CG" also testified that **\$845.86** for unpaid utilities is not in dispute.

However, there was some dispute between the parties around the amount of compensation sought by the landlord with respect to "returned cheques," and this aspect of the landlord's application is addressed further below.

### Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent or utilities dated May 27, 2014. The tenants neither paid the full amount of rent or utilities within 5 days of receiving the notice, nor applied to dispute the notice. Rather, the tenants vacated the unit on June 15, 2014. In the result, I find that the landlord has established entitlement to unpaid rent and utilities in the undisputed and combined total amount of **\$13,735.86** (\$12,890.00 + \$845.86).

As to fees assessed for "returned cheques," the application reflects the landlord's claim for reimbursement of \$315.00, arising from 7 separate occasions on the basis of \$45.00 per occasion (7 x \$45.00). However, it is noted that the tenancy agreement provides for a *per* occasion fee in the amount of \$40.00. The related aspect of the landlord's application refers to these amounts as "service charges." The relevant legislation is to be found in section 7 of the Regulation which speaks to **Non-refundable fees charged by landlord**, in part:

7(1) A landlord may charge any of the following non-refundable fees:

(c) a service fee charged by a financial institution to the landlord for the return of a tenant's cheque;

(d) subject to subsection (2), an administration fee of not more than \$25 for the return of a tenant's cheque by a financial institution or for late payment of rent;

(2) A landlord must not charge the fee described in paragraph (1)(d) or (e) unless the tenancy agreement provides for that fee.

Following from all of the foregoing, and in the absence of any evidence of bank issued documentation concerning fees assessed for returned cheques, I find that the landlord has established entitlement to compensation for administration fees in the total amount of **\$175.00**. This amount is calculated on the basis of 7 occasions of returned cheques, as claimed in the application, at \$25.00 *per* occasion.

As the landlord has succeeded with the principal aspects of the application, I find that the landlord has also established entitlement to full recovery of the **\$100.00** filing fee.

**Total entitlement: \$14,010.86** (\$13,735.86 + \$175.00 + \$100.00)

I order that the landlord retain the security deposit of **\$1,550.00**, and I grant the landlord a **monetary order** for the balance owed of **\$12,460.86** (\$14,010.86 - \$1,550.00).

#### Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$12,460.86**. This order may be served on the tenants, filed in the Small Claims 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: April 20, 2015

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Residential Tenancy Branch

