



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, MND, MNR, MNSD, MNDC, FF, O

### Introduction

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

- an Order of Possession for cause pursuant to section 55;
- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement 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 her filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:55 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. 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 testified that she handed the tenant a copy of her dispute resolution hearing package on April 10, 2015. She also testified that she handed the tenant a copy of written evidence she planned to refer to in this hearing on April 2, 2015. Based on the landlord's undisputed sworn testimony, I accept that the landlord served the tenant with the above-noted documents in accordance with sections 88 and 89 of the *Act*.

At the hearing, the landlord withdrew her application for an Order of Possession for cause as the landlord took possession of the rental unit on April 2, 2015. This portion of the landlord's application is withdrawn. The landlord said that the tenant likely abandoned the rental unit on or about March 11, 2015. The landlord also reduced the amount of her requested monetary award from \$6,120.40 to \$1,100.00, the amount of the tenant's pet damage and security deposits (the deposits). The landlord's requested

amount of monetary award is reduced to \$1,100.00, the amount of the deposits currently held by the landlord.

#### Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent, losses and damage arising out of this tenancy? 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

This tenancy began as a six-month fixed term tenancy on December 1, 2013, and converted to a periodic tenancy by June 1, 2014. Monthly rent was set at \$1,100.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$550.00 security deposit and \$550.00 pet damage deposit, both paid on November 10, 2013.

The landlord gave undisputed sworn testimony and written evidence that the tenant abandoned the rental unit on or about March 11, 2015, without providing any notice to the landlord or providing a forwarding address. The landlord applied for a monetary award of \$1,100.00 for unpaid rent owing for April 2015, as a result of the tenant's failure to provide proper notice to end her tenancy. The landlord testified that she was able to re-rent the premises for May 2015. The remainder of the landlord's application for a monetary award totalling \$6,120.40 was for damage arising out of this tenancy. She supplied a number of estimates for the cleaning and repair work that she claimed arose from this tenancy.

#### Analysis

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. Section 45(1) of the *Act* requires a tenant to end a month-to-month (periodic) tenancy by giving the landlord notice to end the tenancy the day before the day in the month when rent is due. In this case, in order to avoid any responsibility for rent for April 2015, the tenant would have needed to provide his notice to end this tenancy before March 1, 2015. Section 52 of the *Act* requires that a tenant provide this notice in writing. As the tenant did not provide adequate notice to the landlord of his end to this tenancy, I find that the landlord is entitled to recover unpaid rent owed for April 2015.

There is undisputed evidence that the tenant did not pay any rent for April 2015. However, section 7(2) of the *Act* places a responsibility on a landlord claiming

compensation for loss resulting from a tenant's non-compliance with the *Act* to do whatever is reasonable to minimize that loss. In this case, the landlord did not take possession of the rental unit April 2, 2015, and did attempt to re-rent the premises as soon as possible, succeeding in doing so for May 2015. As I am satisfied that the landlord did what she could to minimize the tenant's losses, I issue a monetary award in the landlord's favour in the amount of \$1,100.00 for unpaid rent owing for April 2015.

I allow the landlord to retain the deposits in order to offset the above amount of unpaid rent. No interest is payable on these deposits over this period.

Conclusion

I order the landlord to retain the deposits as a means of recovering the monetary award of \$1,100.00 issued in this decision.

The remainder of the landlord's application is withdrawn.

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: May 14, 2015

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Residential Tenancy Branch

