



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNDC, MNSD, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlords for a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlords to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

One of the landlords attended, gave affirmed testimony and represented the other named landlord. However, despite being served with the Landlord's Application for Dispute Resolution and notice of this hearing by registered mail on February 23, 2015, no one for the tenant attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the landlord. The landlord testified that the documents were served on that date and in that manner and has provided a copy of a Canada Post cash register receipt bearing that date as well as a copy of both sides of a Registered Domestic Customer Receipt addressed to the tenant and stamped by Canada Post on that date. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*, and all evidence has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

- Have the landlords established a monetary claim as against the tenant for unpaid rent?
- Have the landlords established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?
- Should the landlords be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

### Background and Evidence

The landlord testified that this month-to-month tenancy began on May 15, 2014 and the tenant moved out on February 2, 2015. Rent in the amount of \$900.00 per month was payable on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$450.00 which is still held in trust by the landlords, and no pet damage deposit was collected. A copy of the tenancy agreement has been provided.

The landlord further testified that the tenant's rent cheque for the month of January, 2015 was returned by the financial institution for insufficient funds. On January 31, 2015 the tenant told the landlord in a conversation that the tenant could not afford to pay February's rent either, and that the rental unit would be vacant on February 1, 2015. The landlord encouraged the tenant to pay what was possible, however when the landlord went to the rental unit on February 2, 2015 the tenant had moved out. The landlords claim unpaid rent for January and February, 2015, for a total of \$1,800.00.

The landlord further testified that immediately after the tenant moved out the landlords advertised the rental unit on 2 advertising web-sites and there were lots of lookers, but none were suitable, having refused credit checks. It took 2 weeks to clean the rental unit to get it to its original state. A new tenant was secured that had to give notice to vacate another rental unit, and moved in for a tenancy commencing April 1, 2015.

The landlords also received the tenant's forwarding address in wiring by text message on February 2, 2015 and the landlords seek to keep it in partial satisfaction of the claim for unpaid rent. The landlords' original application for dispute resolution was filed on February 13, 2015 but contained errors, and an amended application was filed on February 23, 2015, which is the version served on the tenant by registered mail that day, and to the address provided by the tenant.

The landlords have also provided evidentiary material, which includes a copy of a Returned Cheque Notice showing that the tenant's rent cheque for January had been dishonoured but does not show a service charge by the landlord's financial institution. Also included is a copy of a cheque in the amount of \$900.00 payable to the landlord on the tenant's account dated February 2, 2015. The document also shows that the cheque was certified by the bank on February 20, 2015 and is marked with someone's handwriting that states, "sent on collection." A copy of an Account Activity of the landlord's bank account showing that a rent cheque for February in the amount of \$900.00 was deposited to the account on February 10, 2015 is also included, however appears to be in another tenant's name. The landlord did not mention any of the

evidentiary material other than the tenancy agreement, but stated that due to circumstances, the landlord did not have the proper paperwork during the hearing.

### Analysis

I accept the testimony of the landlord that the tenant's rent cheque for the month of January, 2015 was dishonoured by the tenant's financial institution, and the landlords have established a monetary claim as against the tenant for \$900.00.

With respect to the landlords' application for February's rent, I have reviewed the material and it appears that the landlords have received rent for that month, considering the certified cheque, and due to the fact that the landlord did not have the proper paperwork during the hearing, I find that the landlord may have been mistaken about the amount of rent collected, and the landlords have not established that rent for February hasn't already been paid.

However, since the landlords have been partially successful with the application, the landlords are also entitled to recovery of the \$50.00 filing fee.

I hereby order the landlords to keep the \$450.00 security deposit in partial satisfaction of the claim and I grant the landlords a monetary order for the difference in the amount of \$500.00.

### Conclusion

For the reasons set out above, I hereby order the landlords to keep the \$450.00 security deposit and I grant a monetary order in favour of the landlords as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$500.00.

This order is final and binding and may be enforced.

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 13, 2015

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Residential Tenancy Branch

