



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNSD, FF

### Introduction

This hearing was scheduled to deal with a landlord's application for monetary compensation for unpaid rent and authorization to retain the security deposit. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

### Issue(s) to be Decided

1. Has the landlord established an entitlement to unpaid rent?
2. Disposition of the security deposit.

### Background and Evidence

The landlord in this case rents a three bedroom home from the owner of the property. The landlord had authorization from the owner to sub-let bedrooms at the property. On September 30, 2014 a tenancy formed whereby the tenant would pay rent of \$440.00 on the 1<sup>st</sup> day of every month on a month-to-month basis for exclusive use of a bedroom and shared access to the kitchen, bathroom and living areas of the house. The landlord collected a security deposit of \$200.00 from Income Assistance on behalf of the tenant and rent for October 2014 was paid.

On October 14, 2014 the landlord attended the Residential Tenancy Branch to enquire about ending the tenancy early; however, the tenant moved out of the rental unit on October 15, 2014.

The landlord stated that she applied for a Monetary Order for unpaid rent due to information she received from an Information Officer that she was entitled to do so since the tenancy was ending without sufficient notice; however, the landlord acknowledged during the hearing that she did not suffer a loss of rent. The landlord explained that

after the tenant moved out she did not attempt to re-rent the room. As such, the landlord was agreeable to returning the security deposit but she indicated she wanted to deduct \$14.35 for long distance telephone calls the tenant made from the security deposit. I noted that the landlord had not included a specific claim for telephone calls or provide documentary evidence to support the cost of the calls. The tenant acknowledged making some telephone calls from the residential property but was not agreeable to any deductions from the security deposit as she uncertain as to whether she owed the landlord any money for the calls in the absence of any telephone bills. The parties were informed that the landlord retains the right to file another Application if she intends to pursue the tenant for long distance telephone calls.

The tenant attempted to introduce evidence as to an unlawful eviction and return of the rent she paid for October 2014; however, the tenant has not filed an Application and I found that position irrelevant to the matter before me. Therefore, I did not permit further testimony from the tenant in that regard and I informed the parties that the tenant has the right to file her own Application if she intends to pursue the landlord for monetary compensation for unlawful eviction.

The tenant stated that the post office box she had previously provided to the landlord for a service address has since been closed. During the hearing, the tenant orally provided me and the landlord with a new mailing address.

### Analysis

Under the Act, a party seeking a monetary order must establish that they suffered a loss due to the other party's breach of the Act or tenancy agreement; and, that they took reasonable steps to mitigate their loss. Where a landlord seeks to recover unpaid and/or loss of rent from a tenant, the landlord must be prepared to demonstrate that they took steps to re-rent the unit so as to mitigate losses.

In this case, rent for October 2014 was paid and the tenant moved out of the unit in mid-October 2014 meaning a claim for unpaid and/or loss of rent for November 2014 would have to be supported by evidence the landlord made a reasonable effort to re-rent the unit for November 2014. The landlord acknowledged that she did make any such effort. Therefore, I find the landlord has not established an entitlement to collect unpaid and/or loss of rent for November 2014 and I dismiss her claim against the tenant for unpaid and/or loss of rent.

Pursuant to Residential Tenancy Policy Guideline 17: *Security Deposits and Set-Off*, where a landlord's claims against a security deposit are dismissed, a Monetary Order

will be provided to the tenant to ensure the return of the security deposit. Accordingly, I provide to the tenant with this decision a Monetary Order in the amount of \$200.00 to serve and enforce if necessary.

### Conclusion

The landlord's Application for unpaid and/or loss of rent has been dismissed and the landlord is required to return the tenant's security deposit to her without delay. The tenant has been provided a Monetary Order in the amount of \$200.00 to serve and enforce if necessary.

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 26, 2015

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Residential Tenancy Branch

