



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Manufactured Home Park Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damages to the unit - Section 60;
2. A Monetary Order for unpaid rent - Section 60; and
3. An Order to recover the filing fee for this application - Section 65.

The Landlord and Tenants were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy started in 2010 and in July 2013 the Tenants moved out of the trailer and left it unoccupied. The Tenants continued to pay rent for the pad to and including October 2014. Rent of \$210.00 was payable monthly on the first day of each month in 2014. No rent was paid for November 2014.

The Tenant states that at the outset of the tenancy the Landlord collected the first month's rent of \$160.00 plus an extra half month rent of \$80.00. The Tenant states that the extra rent was never returned to the Tenants. The Landlord states that this is likely true but is not sure. The Tenants provided copies of cheques.

The Landlord states that the Tenant called on November 1, 2014 and informed the Landlord that they were finished moving out and off the pad. The Landlord states that he was aware that the Tenants were going to move but was not told when that would occur. The Landlord claims unpaid November rent of \$210.00. The Tenant states that the Landlord was verbally informed at the end of September 2014 that the Tenant would be moved out before November 1, 2014. The Tenant states that the Landlord told the Tenant not to worry about a written notice. The Landlord denies this.

The Landlord states that the Tenant did not finish clearing the yard until November 12, 2014. The Landlord states that no loss was incurred, such as a lost rental opportunity, by the Tenant's prolonged cleaning. The Landlord claims \$210.00.

The Landlord states that the Tenant damaged the water main valve and claims an approximate cost of \$800.00. The Landlord states that the previous tenant reported no problems with the valve and since it was found damaged at the end of the tenancy the Tenant must have caused the damage. The Landlord states that the valve does not completely close leaving a leak. The Landlord states that the repairs have not been made and that the estimated amount is based on the cost of having a previous and other valve replaced. The Landlord states that with the Landlord's provision of a backhoe the valve repair would only cost about \$400.00.

The Tenant states that at the onset of the tenancy the Landlord was informed that the valve was damaged and that it could not open without using pliers. The Tenant states that half of the valve knob was missing and could only be turned on with vice grips. The Tenant states that the Landlord never repaired the valve. The Tenant states that the water had been shut off in July 2013 when the trailer was left unoccupied. The Tenant states that the water main was checked and operational on October 31, 2014 when the trailer was moved out. The Tenant states that normal wear and tear may have affected the operation of the damaged valve.

The Landlord states that while the Tenant was not residing in the unit the Landlord carried out the maintenance of the lot, including the clearing of snow, mowing and weeding. The Landlord states that the tenancy agreement requires the Tenant to maintain its lot. The Landlord submitted a copy of the Park Rules. The Landlord claims \$200.00 for his wife's time in carrying out the maintenance. The Tenant submits that the signature on these Rules is not the Tenant's signature. The Tenant states that when they moved out of the trailer the Landlord's wife told the Tenants she would take care of their yard in exchange for the Tenant's previous help when the Landlord and his wife were out of country. The Tenant also states that he had returned with his lawn mower on a couple of occasions and found that the Landlord's wife had already done the work. The Landlord denies that the Tenant helped the Landlord and states that the Landlord had paid help while out of country. The Landlord states that he asked his wife about the Tenant's submission that she agreed to maintain the yard and she denied this.

#### Analysis

Section 45 of the Act provides that in order to be effective a tenant must provide its notice to end the tenancy in writing. Based on the undisputed evidence that the Tenant did not provide its notice to end the tenancy in writing I find that there was no effective end of the tenancy for November 1, 2014 when rent was due and payable. As a result I find that the Landlord is entitled to November 2014 unpaid rent of **\$210.00**. Given the Landlord's evidence that an extra half month's rent was likely taken from the Tenant at the onset, I find that the Tenant has substantiated that the Landlord still holds **\$80.00** of rental monies and I deduct this amount from the above entitlement leaving **\$130.00** outstanding on rental arrears.

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding

parts and that costs for the damage or loss have been incurred or established. As the Landlord provided no evidence of loss for the late cleaning by the Tenant, I dismiss the claim for any lost or additional rent.

I accept the Tenant's believable evidence that the valve was damaged at the onset. I also accept the Landlord's similarly believable evidence of not being aware of the damage. Although the Tenant suggests wear and tear, given the Tenant's continued use of the valve while knowing it was damaged and without informing the Landlord, I find that the Tenant's use contributed to the valve's ultimate demise. As the Tenant only contributed to the damages however I find that the Landlord is not entitled to the extent of compensation claimed. Based on the Landlord's evidence that the valve could be replaced for \$400.00 I find that the Landlord has only established a nominal award of **\$50.00** for the Tenant's contribution to the damage of the valve.

While the Tenant gives evidence of an agreement by the Landlord's wife to maintain the yard while the trailer was unoccupied, the Tenant also gives evidence that the Tenant attended the yard on occasion to undertake the maintenance. This evidence seems contradictory and therefore I accept that there was no agreement for the Landlord's wife to maintain the yard without remuneration. However, the Landlord provided no evidence to support that there was an agreement for remuneration. While I accept that the maintenance would be reasonably required in the tenancy agreement, there is no evidence that the Landlord informed the Tenant during their absence that maintenance was required or that the Landlord would undertake the work for a charge if the Tenant did not maintain the yard. As a result, I find that the Landlord has not substantiated the amount claimed or that the Landlord took reasonable steps to mitigate the amount claimed. I therefore dismiss the claim for maintenance of the yard.

As the Landlord's application has met with some success, I find that the Landlord is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$230.00**.

Conclusion

I grant the Landlord an order under Section 67 of the Act for **\$230.00**. If necessary, this order may be 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 *Manufactured Home Park Tenancy Act*.

Dated: June 19, 2015

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Residential Tenancy Branch

