



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, OLC, MNDC

### Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act ("Act"). The tenant applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent ("Notice"), for an order requiring the landlord to comply with the Act, regulations, or tenancy agreement, and a monetary order for money owed or compensation for damage or loss.

The tenant attended the telephone conference call hearing; the landlord did not attend.

The tenant testified that she attempted to hand deliver her application for dispute resolution and notice of hearing on April 13, 201; however, the landlord refused to take the documents when offered.

Based upon the submissions of the tenant, I find the landlord was constructively served notice of this hearing and the tenant's application in a manner complying with section 89(1) of the Act and the hearing proceeded in the landlord's absence.

The tenant was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Preliminary matters*-The tenancy is ending on May 31, 2015, pursuant to another dispute resolution matter, wherein the parties entered into a settlement that the tenants would vacate the rental unit by May 31, 2015. The tenant confirmed that she is vacating

the rental unit on that day. I have therefore amended her application and excluded her request for cancellation of the Notice.

Additionally, the tenant had not defined what section of the Act for which she was seeking an order for the landlord's compliance. I therefore amended her application and excluded her request for such an order.

The hearing proceeded on the tenant's monetary claim of \$600.00

#### Issue(s) to be Decided

Is the tenant entitled a monetary order?

#### Background and Evidence

The tenant submitted that the tenancy began in December 2014. Although the tenant submitted that there was a written tenancy agreement, the agreement submitted by the tenant shows her roommate, "CB", as the only tenant, signed only by CB and the landlord. The monthly rent listed on the written tenancy agreement states "\$500. each".

I note that the earlier dispute resolution matter, which was settled, was between the landlord and CB and this tenant.

The tenant submitted further that her shelter information form, where the tenant received a rent subsidy from a government ministry, shows that the landlord was to receive \$400.00 per month as the tenant's rent subsidy; instead, according to the tenant, the landlord received \$500.00 per month, representing a \$100.00 per month overpayment. The tenant submitted further that the landlord received the rent subsidy directly from the government ministry and that the landlord had assured the tenant that she would reimburse the \$100.00 per month overpayment.

The tenant submitted that the landlord never followed through with her promise to reimburse the overpayment, and therefore the tenant was entitled to \$600.00, or an overpayment of \$100.00 per month from December 2014 through May 2015.

#### Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires

that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from the that party not complying with the Act, the regulations or a tenancy agreement, and order that that party to pay compensation to the other party.

I have reviewed the relevant evidence of the tenant and find she has submitted insufficient and inconclusive evidence to support her application. The shelter agreement supplied by the tenant shows her assistance payment was to be \$400.00 per month; however, the written tenancy agreement, although listing only CB as the tenant, shows that monthly rent was \$500.00 each. As this tenant and CB lived in the rental unit together, I can only conclude that the tenant was responsible for \$500.00 as monthly rent. Additionally, the tenant submitted a copy of only 1 assistance payment going to the landlord, but the beneficiary's name was not listed. Other documentary evidence showed the name of CB, not this tenant.

I therefore find the tenant has submitted insufficient evidence to support her monetary claim and I therefore dismiss the tenant's application, without leave to reapply.

### Conclusion

Due to insufficient evidence, the tenant's application is dismissed.

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: June 1, 2015

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Residential Tenancy Branch

