



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes            OPR, MNR, MNSD, MND, MNDC, FF

### Introduction

This hearing was convened in response to 2 applications by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

On May 12, 2015 the Landlord applied for:

1. An Order for Possession – Section 55;
2. A Monetary Order for unpaid rent - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

On June 2, 2015 the Landlord applied for:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for damages to the unit – Section 67;
3. An Order to retain the security deposit – Section 38;
4. A Monetary Order for compensation – Section 67; and
5. An Order to recover the filing fee for this application - Section 72.

### Preliminary Matters

The Landlord appeared and withdrew the first application as the tenancy has ended. I accept the Landlord’s evidence that the Tenant was served with the second application for dispute resolution and notice of hearing in person on June 2, 2015 in accordance with Section 89 of the Act. The Tenant did not participate in the hearing. The Landlord was given full opportunity under oath to be heard, to present evidence and to make submissions. During the hearing the Landlord also withdrew its claims for damages to the unit stating that this claim will be made at a later date as the repairs to the unit are in the final stages. As there is no prejudice to the Tenant, I allowed this withdrawal and the hearing proceeded solely in relation to the Landlord’s claims for unpaid rent, lost rental income and the filing fee.

Issue(s) to be Decided

Is the Landlord entitled to unpaid rent?

Is the Landlord entitled to lost rental income?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on October 1, 2014 on a fixed term to end September 30, 2015. Rent of \$2,000.00 was payable monthly on the first day of each month. At the outset of the tenancy the Landlord collected \$1,000.00 as a security deposit.

The Tenant failed to pay rent for April and May 2015 and on May 3, 2015 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice"). The Notice carried an effective date of May 13, 2015 and the Tenant did not dispute this Notice. The Tenant did not move out of the unit until June 1, 2015. Although the Parties mutually conducted an inspection of the unit at move-in, the Tenant refused to sign the move-in condition report. The Landlord provided a copy of the move-in report to the Tenant within 15 days of that report being completed. The Landlord offered the Tenant several opportunities to conduct a move-out inspection, including the dates of May 31 and June 1, 2015 however the Tenant failed to respond to any of the Landlord's offers. The Landlord completed the inspection and condition report and provided a copy to the Tenant.

The Landlord states that the Tenant failed to pay rent for April and May 2015 and claims unpaid rent of \$4,000.00.

The Landlord states that the Tenant left the unit unclean and damaged to such an extent that repairs took place throughout the month of June 2015. The Landlord advertised the unit in early June 2015 at the same rate and a new tenant has been found for July 1, 2015. The Landlord claims lost rental income for June 2015 in the amount of \$2,000.00.

Analysis

Section 26 of the Act provides that a tenant must pay rent when it is due under the tenancy agreement. 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 party and that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed. Based on the Landlord's undisputed evidence that the Tenant failed to pay rent and considering the terms of the tenancy agreement on the payment of rent I find that the Landlord has substantiated an entitlement to **\$4,000.00** for unpaid rent.

Based on the Landlord's undisputed evidence that the Tenant left the unit damaged and unclean and that the repairs to the unit were carried out during June 2015, I find that the Landlord has substantiated that the Tenant caused the lost rental income. I also find that the Landlord took reasonable steps to mitigate the losses by advertising the unit and making repairs as soon as possible. I find that the Landlord has therefor substantiated an entitlement to **\$2,000.00** for lost rental income. As the Landlord has been successful with its application I find that the Landlord is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$6,050.00**. Deducting the security deposit of **\$1,000.00** plus zero interest leaves **\$5,050.00** owed by the Tenant.

#### Conclusion

I Order the Landlord to retain the security deposit plus interest of \$1,000.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining amount of **\$5,050.00**. 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 *Residential Tenancy Act*.

Dated: June 25, 2015

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Residential Tenancy Branch

