



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC,

### Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served by mailing, by registered mail to where the landlord resides on July 22, 2015. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to a monetary order and if so how much?
- b. Whether the tenant is entitled to an order for the return his security deposit?
- c. Whether the tenant is entitled to recover the cost of the filing fee?

### Background and Evidence

On October 30, 2014 the parties entered into a room rental agreement that provided the tenant would pay rent of \$550 per month plus 50% of the utilities. The tenant paid a

security deposit of \$300 at that time. The tenancy agreement also provided that there was to be no cats.

The relationship between the tenant and the landlord became strained. On several occasion the tenant gave the landlord notice that he was leaving at the end of the month and then decide not to move. The tenant would pay the rent and the landlord would allow the tenant to remain in the rental unit. The landlord testified he was frustrated with the tenant because he failed to follow the tenancy agreement and brought in a cat.

On June 20, 2015 the landlord was involved in a serious motorcycle accident and was hospitalized for 6 days. He returned on June 26, 2015 but was facing the prospect of being in a wheel chair for an extended period of time and he was in need of assistance.

The tenant had previous given notice he was leaving at the end of June. The tenant refused to leave.

On July 8, 2015 the tenant's rent cheque bounced. He subsequently deposited \$600 into the landlord's account being the rent for July.

The landlord testified that on July 9, the tenant was behaving erratically. The landlord formed the opinion the tenant was on drugs. The next day the landlord formed the opinion the tenant had stolen his sister's medication. The landlord told the tenant he was being evicted because of his behaviour and he (the landlord) did not feel safe. The tenant left but returned a couple of days later. The landlord changed the locks on July 14, 2015. The landlord testified the back door was broken and he called the police. They searched the tenant's room and discovered syringes and empty containers labelled methadone.

The parties exchanged text messages about when and how to meet in the presence of a police officer so that the tenant could remove his belongings.

### Analysis

The tenant may have given notice he was vacating at the end of June. However, the landlord accepted the payment of rent by the tenant and thereby reinstated the tenancy on a month to month basis.

The Residential Tenancy Act does not permit a landlord to end the tenancy in the manner he did. The Act requires that the landlord serve a one month Notice to End Tenancy and then obtain an Order for Possession before the landlord can take steps to require the tenant to move. In serious situations the Act allows the landlord to obtain an order for the early end of the tenancy and then obtain an Order for Possession. I determined the landlord acted contrary to the Act in changing the locks and denying access to the tenant.

With respect to each of the tenant's claims I find as follows:

- a. I determined the tenant is entitled to reimbursement of the rent for the period of time he was forced out of the rental unit. The tenant paid rent of \$600 for July. He was forced out on July 10. I determined the tenant is entitled to reimbursement of the sum of \$406.
- b. I determined the tenant is entitled to \$660 for the cost of 22 days of alternative accommodation. The tenant produced a receipt from a bed and breakfast where he stayed to the balance of July.
- c. I dismissed the tenant's claim of \$1000 for money he borrowed from his nephew. This is not an expense that the landlord is responsible for.
- d. The tenant failed to produce sufficient evidence to establish other claims and he has not proven other expense caused by the landlord's breach.
- e. I dismissed the tenant's claim for the return of the security deposit with liberty to re-apply as that claim is premature. The tenant is required to provide the landlord with his forwarding address in writing and then wait 15 days before filing a claim for the return of the deposit. The tenant has liberty to re-apply.

### Monetary Order and Cost of Filing fee

**I ordered the landlord(s) to pay to the tenant the sum of \$1066 plus the sum of \$50 in respect of the filing fee paid for a total of \$1116.**

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

The tenant may have a claim for the return of the security deposit and the landlord may have a claim for damages and utilities. However, each must file a claim before it can be considered.

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: August 21, 2015

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Residential Tenancy Branch

