



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Action Property Management  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, MNSD, FF

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to cancel a notice to end tenancy.

The hearing was conducted via teleconference and was attended by an agent for the landlord.

The landlord provided documentary evidence to confirm the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on July 23, 2015 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5<sup>th</sup> day after they have been mailed.

Based on the evidence of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

The landlord's agent confirmed at the start of the hearing that the tenant vacated the rental unit as of July 26, 2015. The landlord no longer seeks an order of possession and I amend the Application for Dispute Resolution to exclude the matter of possession.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent for lost revenue; for all or part of the security and pet damage deposits and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on March 11, 2015 for a 6 month and 8 day fixed term tenancy beginning on March

- 23, 2015 for the monthly rent of \$1,670.00 due on the 1<sup>st</sup> of each month and a security deposit of \$835.00 and a pet damage deposit of \$835.00 were paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on July 3, 2015 with an effective vacancy date of July 17, 2015 due to \$1,670.00 in unpaid rent.

The tenancy agreement contained an addendum that included a clause requiring the tenant pay a \$25.00 fee for late payment of rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the month of July 2015 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on July 3, 2015 at 4:00 p.m.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

The landlord submits that despite advertising the rental unit immediately upon receiving confirmation the tenant had vacated the rental unit they began advertising its availability at a lower rental rate on various websites and that they were only able to secure new tenants for October 1, 2015.

As the tenancy was for a fixed term the landlord seeks compensation for the loss of revenue for the months of August and September 2015.

### Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Based on the landlord's undisputed evidence and testimony I find the landlord has established the tenant failed to pay rent and the late payment fee for the month of July 2015. I also find the landlord has suffered a loss of revenue as described above.

### Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$5,135.00** comprised of \$1,670.00 rent owed; \$25.00 late fee; \$3,340.00 lost revenue and the \$100.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit in the amount of \$835.00 and the pet damage deposit in the amount of \$835.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$3,465.00**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: September 28, 2015

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Residential Tenancy Branch

