



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MND, MNR, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order. The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that he served the application for dispute resolution and notice of hearing (the “Hearing Documents”) by leaving them at the rental unit on July 31. Section 89 of the Act provides that when a landlord is seeking a monetary order, the Hearing Documents must be served either by registered mail or by personal service. The landlord testified that he had conversations with the tenant in which they discussed this hearing and the claim and that the landlord also saw the Hearing Documents on a table inside the unit. Although the landlord did not serve the Hearing Documents in accordance with the requirements of the Act, section 71(2)(c) permits me to find that documents have been sufficiently served for the purposes of the Act and given the fact that the landlord has discussed the hearing with the tenant, I found that the tenant received the documents and had knowledge both of the claim against him and the date of the hearing and the hearing proceeded in the tenant’s absence.

At the hearing, the landlord asked to amend his claim to include a claim for unpaid rent for August. I found that the tenant should reasonably have known that the landlord could not re-rent the unit while the tenant was still residing therein and I allowed the amendment. The landlord also asked to amend his claim to include a claim against the security deposit, which amendment I also allowed.

At the hearing, the landlord advised that the tenant had vacated the rental unit at the end of August. As an order of possession is no longer required, I consider that claim to have been withdrawn.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The landlord's undisputed evidence is as follows. The tenancy began on February 1, 2014. Rent was set at \$1,900.00 per month, the tenant paid a \$950.00 security deposit and the tenant was obligated under the terms of the tenancy agreement to pay for utilities.

The landlord testified that the tenant failed to pay rent in the months of July and August and seeks to recover \$1,900.00 in rent for each of those months. The landlord further testified that the tenant failed to pay utilities during most of the tenancy and seeks to recover \$2,545.27. The landlord provided a copy of the utility invoice from the municipality showing that this amount was charged to the tenant and remains unpaid.

The landlord further seeks to recover \$500.00 as the estimated cost of repairing a shed on the property. The landlord testified that the tenant kept dogs in the shed and that it was destroyed as a result.

The landlord also seeks to recover the \$50.00 filing fee paid to bring his application.

### Analysis

I accept the landlord's undisputed testimony. I find that the tenant was required to pay \$1,900.00 per month in rent and that he failed to do so in the months of July and August 2015. I find that the landlord is entitled to recover these arrears and I award the landlord \$3,800.00. I further find that the tenant was obligated under the terms of the tenancy agreement to pay the utilities for the rental unit and that he failed to do so, leaving a balance of \$2,545.27. I find that the tenant must be held liable for that invoice and I award the landlord \$2,545.27.

The landlord provided no evidence to corroborate his claim with respect to shed damage. He provided no photographs to show that the alleged damage goes beyond what may be considered reasonable wear and tear and provided no invoices or estimates showing the cost of repairs. In the absence of such evidence, I dismiss this part of the claim as unproven.

As the landlord has been substantially successful in his claim, I find he should recover the \$50.00 filing fee and I award him \$50.00 for a total award of \$6,395.27. I order the landlord to retain the \$950.00 security deposit in partial satisfaction of the claim and I grant him a monetary order under section 67 for the balance of \$5,445.27. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order for \$5,445.27 and will retain the security deposit.

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: October 06, 2015

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Residential Tenancy Branch

