



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNDC, MNSD, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The landlord attended the hearing by conference call and gave undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was personally served on May 13, 2015 at her place of work. The landlord stated that he had no proof of service. As such, I find based upon the undisputed affirmed testimony of the landlord that the tenant has properly served the tenant with the notice of hearing package and the submitted documentary evidence as per section 88 of the Act.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order unpaid rent, for money owed or compensation for damage or loss and recovery of the filing fee?

Is the landlord entitled to retain all or part of the security and pet damage deposits?

### Background and Evidence

This tenancy began on December 1, 2014 on a fixed term tenancy for 6 months ending on May 31, 2014 and then thereafter on a month-to-month basis as shown by the

submitted copy of the signed tenancy agreement dated November 11, 2014. The monthly rent was \$1,200.00 payable on the 1<sup>st</sup> day of each month and security deposit of \$600.00 and a pet damage deposit of \$300.00 were paid on December 1, 2014.

The landlord seeks a monetary claim of \$1,200.00 for unpaid rent for May 2015 as the tenant vacated the rental unit ending the tenancy.

The landlord gave undisputed affirmed testimony that the tenant's May 2015 rent cheque of \$1,200.00 was "stopped" based upon a notification letter that the landlord received from his bank.

The landlord's witness, P.F. also stated that he received a copy of the same notification letter and the "stopped" cheque from the landlord. P.F. stated that the May 2015 rent cheque was stopped by the tenant.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

I find on a balance of probabilities that I accept the undisputed affirmed evidence of the landlord that the tenant placed a "stop payment" on the May 2015 cheque and vacated the rental premises in mid-May 2015 without notice. The landlord has established a claim for unpaid rent of \$1,200.00 for May 2015 rent.

The landlord testified that he continues to hold the tenant's security deposit of \$600.00 plus interest from December 1, 2014 until the date of this decision. Over that period, no interest is payable on the landlord's retention of the security deposit. Using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenant's security deposit plus applicable interest in partial satisfaction of the monetary award. No interest is payable over this period.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

### Conclusion

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord an award for unpaid rent, less the amount already returned to him, plus the recovery of his filing fee.

Item	Amount
Unpaid Rent May 2015	\$1,200.00
Less Security Deposit	-600.00
Recovery of Filing Fee for this Application	50.00
<b>Total Monetary Order</b>	<b>\$650.00</b>

The landlord is provided with this Order in the above terms and the tenant must be served with this Order. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: October 20, 2015

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Residential Tenancy Branch

