



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MDSD & FF

### Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent
- b. A monetary order in the sum of \$2598.67 for unpaid rent and damages
- c. An order to retain the security deposit.
- d. An order to recover the cost of the filing fee

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. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party.

I find that the 10 day Notice to End Tenancy was sufficiently served on the Tenant by posting on August 21, 2015. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on September 2, 2015. With respect to each of the applicant's claims I find as follows:

### Preliminary Issue:

The agent for the tenant requested an adjournment. She stated the tenant is a senior citizen who is faced with multiple health challenges as well as memory loss. She submitted she first became aware of the hearing yesterday and she needs time to obtain evidence. The landlord disputed the application for adjournment. The tenant has been aware of the hearing for 2 months. After considering the submissions of the parties I determined that it was appropriate to consider the landlord's claim for loss of rent for June, July and August, the claim for waste disposal and the fixing of the smoke alarm. The only issue the tenant disputed was the claim for non payment of the rent for June. I severed the landlord's claim for loss of rent for September, October and November and ordered that the landlord be granted leave to re-apply.

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on December 1, 2013. The present rent is \$413 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$273 at the start of the tenancy.

The tenant testified she moved to alternate accommodation on August 18, 2015. However, her children remained in the rental unit until the middle of September at which time she returned the keys.

The tenant acknowledged she failed to pay the rent for July (\$320 is owed) and August (\$413 is owed). She disputed the claim for non payment of rent for June. The tenant also took responsibility for waste disposal charge of \$282.58 and the replacement of a smoke detector in the sum of \$24.09.

The landlord alleged they had claims for repair of the unit which was not brought in the within application as the tenant was in possession at the time this application was filed. This application also makes a claim for loss of rent for September, October, and November.

Analysis - Order of Possession:

It is no longer necessary to consider the landlord's application for an Order for Possession as the tenant has vacated the rental unit and the landlord has regained possession.

Settlement:

At the end of the hearing the parties reached a comprehensive settlement of all outstanding issues including the landlord's claim for loss of rent for September, October and November and the claim for damage to the rental unit and they asked that I record the settlement pursuant to section 63(2) of the Residential Tenancy Act as follows:

- a. The landlord shall retain the security deposit of \$273.

- b. In addition the tenant shall pay to the landlord the sum of \$1359.67 (non-payment of rent for June in the sum of \$320, non-payment of rent for July in the sum of \$320, non-payment of rent for August in the sum of \$413, garbage disposal charge in the sum of \$282.58, and replacement of the smoke detector in the sum of \$24.09 for a total of \$1359.67).
- c. This is a full and final settlement and each party releases and discharges the other from all further claims with regard to this tenancy.

Analysis - Monetary Order and Cost of Filing fee:

As a result of the settlement I ordered that the landlord shall retain the security deposit. I further ordered that the tenant pay to the landlord the sum of \$1359.67.

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.

Conclusion

In conclusion I ordered that the landlord shall retain the security deposit. I further ordered that the tenant shall pay to the landlord the sum of \$1359.67.

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: November 04, 2015

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Residential Tenancy Branch

