



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes            OPR, MNR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord) filed under the Residential Tenancy Act (the "Act"), for and order of possession, for a monetary order for unpaid rent, and for an order to retain the security deposit in partial satisfaction of the claim.

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were served in person on January 25, 2016.

I find that the tenant has been duly served in accordance with the Act.

The landlord gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Preliminary matters

At the outset of the hearing the landlord indicated that the tenant has vacated the property and no longer required an order of possession. The landlord indicated that they are seeking to withdraw their application to retain the security deposit as the tenant vacated the rental unit without providing a forwarding address and the security deposit does not cover the cost of damages.

### Issue to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

The tenancy began on October 1, 2013. Rent in the amount of \$780.00 was payable on the first of each month. The tenant paid a security deposit and a pet damage deposit of \$600.00. The tenancy ended on January 31, 2016.

The landlord testified that the tenant failed to pay all rent owed for November 2015, as there was an outstanding balance of \$200.00. The landlord stated the tenant then failed to pay any rent for December 2015, and the tenant was served with a notice to end tenancy with an effective date of December 27, 2015.

The landlord testified that the tenant did not leave on the effective date and sent a text that they would leave on January 31, 2016. The landlord stated the tenant failed to pay rent for January 2016. The landlord seeks to recover unpaid rent in the amount of \$1,760.00.

The landlord testified that they further seek loss of rent for February 2016, as the tenant would not allow them to show the rental unit after given notice. The landlord stated that when they would attend the unit with potential new renters the tenant would slam the door and use their dog to intimidate them. The landlord seeks to recover the amount of \$780.00, as they were unable to find a renter for February 2016.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Rules about payment and non-payment of rent are defined in Part 2 of the Act.

### **Rules about payment and non-payment of rent**

**26 (1)** *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

...

I accept the unopposed evidence of the landlord, that the tenant failed to pay all rent owed for November 2015, and any rent for December 2015 and January 2016. I find the tenant has breached section 26 of the Act when they failed to pay rent when due under the tenancy

agreement and this has caused losses to the landlord. Therefore, I find the landlord is entitled to recover unpaid rent as described above in the amount of **\$1,760.00**.

I further accept the unopposed evidence of the landlord that the tenant interfered with the landlord's lawful right to re-rent the unit, when they denied access to the landlord to show potential new renters the rental unit and used their dog to intimidate the landlord. I find the tenant breached the Act, and the landlord suffered a loss.

The landlord is entitled to an amount sufficient to put the landlord in the same position as if the tenant had not breached the Act. This includes compensating the landlord for any loss of rent. Therefore, I find the landlord is entitled to recover loss of rent for February 2016, in the amount of **\$780.00**.

I find that the landlord has established a total monetary claim of **\$2,640.00** comprised of the above described amounts and the \$100.00 fee paid for this application. I grant the landlord an order under section 67 of the Act.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant

#### Conclusion

The landlord is granted a monetary order.

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: March 08, 2016

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Residential Tenancy Branch

