



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

matter regarding FIRST SERVICE RESIDENTIAL  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: MNR MNSD FF

### **Introduction:**

Both parties attended the hearing and the tenant confirmed he received the Application for Dispute Resolution (which was filed December 2, 2015) from the landlord by registered mail. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for a monetary order pursuant to Sections 46 and 67 for unpaid rent, to retain the security deposit to offset the amount owing and to recover the filing fee pursuant to Section 72.

### **Issue(s) to be Decided:**

The tenant vacated the unit on November 24, 2015 without paying rent for November. . Is the landlord now entitled to a Monetary Order for rental arrears and filing fee and to retain the security deposit to offset the amount owing?

### **Background and Evidence:**

Both parties attended the hearing and were given opportunity to be heard, to present evidence and to make submissions. The parties agreed the tenancy commenced on May 1, 2013, rent was \$1371 as of May 2015 and a security deposit of \$655 was paid. The landlord requests the outstanding rent of \$1371 for November 2015 and to retain the security deposit to offset the amount owing.

In a prior hearing in November 2015, the parties reached a settlement agreement wherein the tenant agreed to pay rent for November and part of December and the landlord was granted an Order of Possession to be served if the rent was not paid as promised. The tenant stated some other issues in the hearing and was given leave to reapply if necessary. The tenant has not made an Application. The tenant stated the manager had caused him extreme hardship and was very aggressive. As a result, he said he has had financial issues and has no place to live. He said she had violated his privacy and he has made a complaint to the Privacy Commissioner Officer. He said the tub in his unit had not been repaired and that caused him some health issues. He provided no documentary evidence.

In evidence is the registered mail receipt, a Condition Inspection Report, the tenancy agreement, a Notice of Rent Increase, the Rent Ledger and a copy of the previous Decision and Settlement with the resulting Order of Possession. On the basis of the solemnly sworn evidence presented at the hearing, a decision has been reached.

### **Analysis**

Section 26 of the Act provides that a tenant must pay rent on time whether or not the landlord fulfills their obligations under the Act. I find the tenant did not pay rent for November 2015 and remained in possession until November 24, 2015. I find the landlord entitled to a monetary order for \$1371 for November's rent and to retain the security deposit to offset the amount owing.

Although the tenant said he wanted his security deposit back, I find the landlord made their Application on December 2, 2015 which is within 15 days of the tenant vacating the premises so pursuant to section 38 of the Act, the landlord may claim against the deposit to retain it for outstanding rent. I dismiss the other allegations of the tenant. I note he has made a complaint to the Privacy Commissioner and I have no jurisdiction in that matter. I note also that he mentioned his other issues in the previous hearing and was given leave to reapply but he did not reapply. Furthermore, although the tenant alleged the landlord was too aggressive and caused him problems, I find the landlord was asserting their legal rights under the Act to collect unpaid rent.

### **Conclusion:**

I find the landlord is entitled to a monetary order as calculated below and to retain the security deposit to offset the amount owing. I find the landlord is entitled to recover filing fees paid for this application.

Calculation of Monetary Award:

Rent arrears for November 2015	1371.00
Filing fee	50.00
Less security deposit (no interest 2013-16)	-655.00
<b>Total Monetary Order to Landlord</b>	<b>766.00</b>

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 31, 2016

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**Residential Tenancy Branch**

