



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNR MNSD FF

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the *Residential Tenancy Act* (the "Act") for a monetary order for unpaid rent or utilities, for authorization to retain all or part of the tenant's security deposit, and to recover the cost of the filing fee.

The landlord attended the teleconference hearing and gave affirmed testimony. During the hearing the landlord was given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), Application for Dispute Resolution (the "Application") and documentary evidence were considered. The landlord testified that the Notice of Hearing, Application and documentary evidence were served on the tenant by registered mail on September 30, 2015 and submitted a registered mail tracking number in evidence. According to the landlord, which was supported by the online registered mail tracking website; the tenant successfully signed for and accepted the registered mail package on October 1, 2015. Based on the above, I find that the tenant was sufficiently served on October 1, 2015 with the Notice of Hearing, Application and documentary evidence, which is the date the tenant signed for and accepted the registered mail package.

### Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenant's security deposit under the *Act*?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on May 1, 2014. The tenant's monthly rent was \$800.00 which was due on the first day of each month. The tenant paid a security deposit of \$400.00 at the start of the tenancy, which the landlord continues to hold. The landlord testified that the tenant did not pay a pet damage deposit during the tenancy.

The landlord's monetary claim for \$1,650.00 is as follows:

| ITEM DESCRIPTION                          | AMOUNT CLAIMED    |
|-------------------------------------------|-------------------|
| 1. Unpaid September 2015 rent             | \$800.00          |
| 2. Loss of October 2015 rent              | \$800.00          |
| 3. Recovery of the cost of the filing fee | \$50.00           |
| <b>TOTAL</b>                              | <b>\$1,650.00</b> |

The landlord testified that the tenant texted her on September 21, 2015 that she moved out of the rental unit as she could no longer afford the rental unit. The landlord testified that she began to attempt to re-rent the rental unit immediately by posting an ad for a new tenant on September 21, 2015 and was finally able to secure a new tenant for November 1, 2015. As a result of the tenant failing to provide proper 1 month's written notice as required by the *Act*, the landlord is seeking the unpaid rent of \$800.00 which the tenant has failed to pay, plus \$800.00 for the loss of rent for October 2015.

The landlord submitted a copy of the text messages between the landlord and the tenant in evidence in support of her application.

### Analysis

Based on the undisputed documentary evidence and testimony of the landlord provided during the hearing, and on the balance of probabilities, I find the following.

As I found the tenant was sufficiently served with the Notice of Hearing, Application and documentary evidence and did not attend the hearing, I consider this matter to be unopposed by the tenant. As a result, I find the tenant breached section 45 of the *Act* by failing to provide proper notice to end the month to month notice and that the landlord's application is fully successful in the amount of **\$1,650.00**. This amount includes the recovery of the cost of the filing fee in the amount of **\$50.00** as the landlord's application is successful, \$800.00 for unpaid September 2015 rent, and \$800.00 for loss of October 2015 rent. I have considered the undisputed testimony of the landlord and that the

application was unopposed by the tenant. The landlord continues to hold the tenant's security deposit of \$400.00 which has not accrued any interest to date.

**I authorize** the landlord to retain the tenant's full security deposit of \$400.00 in partial satisfaction of the landlord's monetary claim. I grant the landlord a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlord in the amount of **\$1,250.00**.

### Conclusion

The landlord's application is successful.

The landlord has been authorized to retain the tenant's full security deposit of \$400.00 in partial satisfaction of the landlord's monetary claim. The landlord has been granted a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlord in the amount of \$1,250.00. The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: April 18, 2016

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Residential Tenancy Branch