



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, MNSD, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlords for an Order of Possession and a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlords to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

Both landlords attended the hearing, one of whom gave affirmed testimony. However, despite being served with the Landlord Application for Dispute Resolution and notice of this hearing by registered mail on March 19, 2016, no one for the tenant attended the call. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participants who joined the call were the landlords. The landlord testified that the tenant was served on that date and in that manner and has provided a copy of the Registered Receipt stamped by Canada Post bearing that date, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

At the commencement of the hearing the landlord advised that the tenant has vacated the rental unit, the landlords have possession of it, and the application for an Order of Possession is withdrawn.

### Issue(s) to be Decided

The issues remaining to be decided are:

- Have the landlords established a monetary claim as against the tenant for unpaid rent or utilities?
- Have the landlords established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

- Should the landlords be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

### Background and Evidence

The landlord testified that this fixed-term tenancy began on January 20, 2016 and was to expire on February 1, 2017 thereafter reverting to a month-to-month tenancy. Rent in the amount of \$800.00 per month was payable on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$400.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is a basement suite and the landlords reside in the upper unit. A tenancy agreement was signed by the parties, however a copy has not been provided for this hearing.

The landlord further testified that the tenant failed to pay rent in full in March, 2016 and on March 2, 2016 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities to the door of the rental unit. A copy has been provided and it is dated March 2, 2016 and contains an effective date of vacancy of March 12, 2016 for unpaid rent in the amount of \$375.00 that was due on March 1, 2016 and \$221.50 unpaid utilities following a written demand on February 23, 2016. The tenant has not paid any rent since the issuance of the notice and still owes \$375.00 for March rent.

The landlord also testified that the Landlord's Application for Dispute Resolution was filed with the Residential Tenancy Branch on March 18, 2016 and the tenant was served by registered mail on March 19, 2016. The tenant served the landlords with an application for dispute resolution on March 24, 2016 seeking return of the security deposit, which is scheduled for hearing on May 9, 2016. The landlord spoke with someone at the Residential Tenancy Branch requesting to join the 2 hearings to avoid taking more time off work but the request was denied. The landlords have not received a forwarding address from the tenant, and the tenant's application contains the rental unit as the address for the tenant.

The parties had conducted a move-in condition inspection report at the commencement of the tenancy, and after the landlords had issued the notice to end the tenancy the tenant kept saying she was moving but didn't. The tenant finally vacated the rental unit without notice to the landlord while the landlords were not at home on April 5, 2016. The landlords claim \$135.00 for that portion of April's rent.

The landlords completed the move-out condition inspection report after the tenant vacated the rental unit, and have provided a copy as well as digital photographs. The

landlords paid a cleaning company \$100.00 which they claim as against the tenant, however no receipt has been provided.

The parties had also agreed that the tenants would pay 25% of the utility bill, and the landlords have provided a copy of a hydro bill in the amount of \$866.90, for which the landlords claim \$221.50.

The landlords also claim the cost of parking for attending the Residential Tenancy Branch to file documentation, recovery of the cost of registered mail sent to the tenant, and recovery of the \$100.00 filing fee.

### Analysis

Firstly, with respect to the landlord's testimony that the tenant has served the landlords with a hearing package scheduled for May 9, 2016, having found that the tenant has been served with the landlords' application and hearing documents in accordance with the *Residential tenancy Act*, the tenant had an obligation to attend this hearing to answer to the landlords' claim. In the absence of any representation by the tenant, I find that the landlords are entitled to this hearing commencing in any event.

I have reviewed the evidentiary material provided by the landlords, and considering the undisputed testimony of the landlord, I am satisfied that the tenant failed to pay \$375.00 of the rent owed for March, 2016. I also accept the testimony of the landlord that the tenant didn't pay any rent for April, 2016 and moved out on April 5, 2016, however the landlords provided no evidence or testimony of when the rental unit, or if the rental unit was re-rented. I also find that 5 days in April would amount to \$133.33 and the landlords have established that amount.

I am also satisfied from the text messages provided that the tenant agreed to pay 25% of the hydro bill and failed to do so. However, the bill is \$866.90, and 25% of that is \$216.72, not \$221.50 as claimed.

The landlord testified that the tenant vacated the rental unit well after the effective date of the notice to end the tenancy on a date while the landlords were not home and without notice to the landlords. I accept that testimony and find that the tenant abandoned the rental unit, and the landlords' obligation to provide at least 2 opportunities to conduct a move-out condition inspection report is not required. I have also reviewed the move-in/move-out condition inspection report and the photographs. Although the landlords have not provided a copy of an invoice for the \$100.00 cleaning claim, I find that in the circumstances it is a nominal amount and established by evidence of the move-in/out condition inspection reports and photographs.

The *Residential Tenancy Act* specifies recovery of a filing fee upon success with an application for dispute resolution, but does not permit me to make any monetary orders with respect to recovery of service costs or parking. Therefore, since the landlords have been partially successful with the application, the landlords are entitled to recovery of the \$100.00 filing fee.

In summary, I find that the landlords have established a monetary claim for unpaid rent for March, 2016 in the amount of \$375.00; unpaid rent for April in the amount of \$133.33; unpaid utilities in the amount of \$216.72; cleaning in the nominal sum of \$100.00; and recovery of the \$100.00 filing fee; for a total of \$925.05.

I order the landlords to keep the \$400.00 security deposit in partial satisfaction, and I grant a monetary order in favour of the landlords for the difference in the amount of \$525.05.

#### Conclusion

For the reasons set out above, the landlords' application for an Order of Possession is hereby dismissed as withdrawn.

I hereby order the landlords to keep the \$400.00 security deposit and I grant a monetary order in favour of the landlords as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$525.05.

This order is final and binding and may be enforced.

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: April 28, 2016

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Residential Tenancy Branch