



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPREIT LIMITED PARTNERSHIP  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid and loss of rent; other fees; and, authorization to retain the security deposit. The tenant did not appear at the hearing. The landlord provided a registered mail receipt, including tracking number, as proof of service. The landlord testified that the registered mail was sent to the tenant on April 1, 2016 and the tenant was still residing at the property at that time; however, the registered mail was returned as unclaimed. The landlord found the rental unit to be abandoned as of April 12, 2016 and re-rented the unit effective April 15, 2016.

Section 90 of the Act deems a person to have received mail five days after mailing even if the person refuses to pick up or accept their mail. Based upon the evidence before me I was satisfied that the landlord sent the hearing documents to the tenant at her address of residence at the time of mailing and I deemed the tenant to be served with the hearing documents five days later. Accordingly, I proceeded to hear the landlord's claims against the tenant without the tenant present.

Since the tenant has vacated or abandoned the property and the landlord has regained possession of the unit, an Order of Possession is no longer necessary and one is not provided with this decision.

As to the landlord's monetary claim of \$4,000.00, I noted that the landlord had not provided a Monetary Order worksheet or other document to provide a breakdown of this sum. In the details of dispute the landlord indicated that it was seeking compensation for "rent for March and month thereafter" and to "collect any fees that accumulate." I found the details of dispute sufficiently clear that the landlord is seeking to recover unpaid and/or loss of rent from the tenant and I proceeded to hear that claim. However, I found the request for "any fees that accumulate" to be too vague to meet the landlord's requirement under section 59 of the Act, as the applicant, to provide "full particulars" as to the nature of the claim. Therefore, I did not consider the landlord's request to collect

fees or any other damages and loss other than rent by way of this application and the landlord was given leave to make another application to recover any other losses.

Issue(s) to be Decided

1. Has the landlord established an entitlement to recover unpaid and/or loss of rent from the tenant?
2. Is the landlord authorized to retain the security deposit?

Background and Evidence

The one-year fixed term tenancy commenced September 1, 2015 and the landlord collected a security deposit of \$490.00. The tenant was required to pay rent of \$980.00 on the first day of every month.

The tenant failed to pay rent for the month of March 2016 and on March 2, 2016 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the door of the rental unit. The Notice indicates rent of \$980.00 as outstanding as of March 1, 2016 and has a stated effective date of March 15, 2016. After posting the Notice the tenant did not pay the outstanding rent or file to dispute the Notice. Nor did the tenant pay any monies for the month of April 2016. The landlord observed that the tenant was still at the property in early April 2016 but found the rental unit abandoned upon inspecting it on April 12, 2016. The landlord re-rented the unit effective April 15, 2016.

The landlord seeks to recover unpaid rent for the period of March 1, 2016 through to April 15, 2016 when the unit was re-rented.

Documentary evidence provided for this proceeding included copies of: the tenancy agreement, including a parking addendum; the 10 Day Notice; and, the registered mail receipt.

Analysis

Under section 26 of the Act, a tenant is required to pay rent when due in accordance with their tenancy agreement. I accept the undisputed evidence before me that the tenant was required to pay rent of \$980.00 on the first day of every month and the tenant failed to do so for the month of March 2016. Accordingly, I find the landlord entitled to recover unpaid rent for the month of March 2016.

I also find that the tenancy came to an end due to the tenant's breach of the tenancy agreement and the Act in failing to pay rent that was due to the landlord. I further find the tenant failed to vacate the rental unit by the effective date of the 10 Day Notice causing the landlord to further suffer loss of rent until the unit was re-rented on April 15, 2016. Therefore, I award the landlord loss of rent for the first half of April 2016 in the amount of \$490.00.

I authorize the landlord to retain the tenant's security deposit in partial satisfaction of the rent owed the landlord. I also award the landlord recovery of the \$100.00 filing fee paid for this application.

In light of the above, the landlord is provided a Monetary Order to serve and enforce upon the tenant, calculated as follows:

Unpaid Rent: March 2016	\$ 980.00
Loss of Rent: April 2016	490.00
Filing fee	100.00
Less: security deposit	<u>(490.00)</u>
Monetary Order	\$1,080.00

### Conclusion

The landlord has been authorized to retain the tenant's security deposit and has been provided a Monetary Order for the balance of \$1,080.00 to serve and enforce upon the tenant.

The landlord has been given leave to make another Application if the landlord intends to pursue the tenant for fees, and damages or losses other than rent.

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: May 04, 2016

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Residential Tenancy Branch