



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MNR

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, submitted to the Residential Tenancy Branch on May 10, 2016, and amended on May 12, 2016 (the "Application").

The Landlord seeks the following relief pursuant to the *Residential Tenancy Act* (the "Act"): an order of possession for unpaid rent; and a monetary order for unpaid rent.

The Landlord attended the hearing on her own behalf, and provided affirmed testimony and documentary evidence.

The Tenant did not attend the hearing. However, documentary evidence submitted by the Landlord confirms the Tenant was served with the Notice of a Dispute Resolution Hearing, dated May 11, 2016 (the "Notice"), by registered mail. The Canada Post tracking information confirms the Notice was received by the Tenant on May 16, 2016. I find the Tenant was duly served on that date.

At the outset of the hearing, the Landlord confirmed the Tenant vacated the rental unit on March 16, 2016. The Landlord requested that the application for an order of possession be withdrawn. The Landlord's request for an order of possession will not be considered further in this Decision.

A summary of the Landlord's evidence, derived from the documentary evidence and affirmed testimony, is provided below. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

Is the Landlord entitled to a monetary order? If so, in what amount?

### Background and Evidence

The Landlord submitted a copy of the tenancy agreement between the parties, signed on March 21, 2014. It confirms an initial fixed-term tenancy for the period from April 15, 2014 to April 30,

2015. Thereafter, the tenancy continued on a month-to-month basis. Rent in the amount of \$1,600.00 per month was due and payable on the first day of each month. The Tenant paid a security deposit in the amount of \$800.00, which the Landlord retains.

The Landlord advised the Tenant has not paid rent for the months of February and March 2016, although the Tenant did make a partial payment of \$100.00. She says \$3,100.00 remains outstanding.

The Landlord also claimed she was entitled to administrative fees in the amount of \$25.00 for each month rent was late, for a total of \$50.00.

As a result of the outstanding rent owed by the Tenant, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated March 6, 2016 (the "10 Day Notice"). The Landlord says the 10 Day Notice was served on the Tenant on that date by attaching a copy to the door of the Tenant's rental unit. A copy was also emailed to the Tenant.

As noted above, the Tenant vacated the rental unit on March 16, 2016.

### Analysis

Based on the documentary evidence and unchallenged oral testimony provided during the hearing, and on the balance of probabilities, I find the following:

The Landlord's evidence confirms the Tenant was served with the 10 Day Notice on May 6, 2016, by attaching a copy to the door of the rental unit. Pursuant to section 90 of the *Act*, documents served in this way are deemed to be received on the third day after they are attached. I find the 10 Day Notice was duly served on the Tenant on May 9, 2016.

Section 26 of the *Act* requires tenants to pay rent when due. I am satisfied the Tenant has not paid rent when due, and that the Tenant owes the Landlord \$3,100.00 in outstanding rent for February and March 2016.

The Landlord has also requested that I include administrative fees for late payment of rent in any monetary award I make.

Section 7(1)(d) of the *Residential Tenancy Regulation* permits landlords to charge an administrative fee for late payment of rent. However, section 7(2) stipulates that a landlord must not charge this fee unless the tenancy agreement provides for it.

On review of the tenancy agreement provided by the Landlord, I find it does not provide for an administrative fee for late payment of rent. Accordingly, this aspect of the Landlord's claim is dismissed.

Pursuant to section 72 of the *Act*, I find the Landlord is entitled to recover the \$100.00 filing fee paid to bring the Application.

The Landlord wishes to apply the security deposit (\$800.00) in partial satisfaction of the monetary award.

Accordingly, pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$2,400.00, which has been calculated as follows:

<b>Item</b>	<b>Amount</b>
February rent outstanding:	\$1,600.00
March rent outstanding:	\$1,500.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$800.00)
<b>TOTAL:</b>	<b>\$2,400.00</b>

#### Conclusion

I grant the Landlord a monetary order in the amount of \$2,400.00. This order may be filed in and enforced as an order of the Provincial Court (Small Claims) and enforced as an order of that Court.

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: June 10, 2016

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Residential Tenancy Branch