



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding REIT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, FF, OLC

### Introduction

This hearing dealt with an application by the tenant seeking a monetary order and an order to recover the filing fee for this application. Despite having been served with the application for dispute resolution and notice of hearing by personally serving the receptionist at the company's office on April 28, 2016, the landlords did not participate in the conference call hearing.

### Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

### Background, Evidence

The tenant's testimony is as follows. The tenancy began on October 1, 2008 and is ongoing. The tenant is obligated to pay \$899.05 per month in rent in advance and by the 1<sup>st</sup> of each month. The tenant stated that he drops off his cheque in the "drop box" in his building each month on the first. The tenant stated that the landlord charged him a late fee for paying his February rent late; on February 3, 2016. The tenant stated that he paid his rent on time. The tenant stated that he was issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities for the unpaid \$25.00 late fee. The tenant stated that he paid the fee to cancel the notice but wants his \$25.00 back and the filing fee.

The tenant stated that the landlord is being unfair in their practices and that they want the rent submitted by 5 pm on the first of each month or by automatic withdrawal.

The tenant stated that he seeks a monetary order of \$125.00.

### Analysis

While I have turned my mind to all the documentary evidence and the testimony of the tenant, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claim and my findings around each are set out below.

The tenant did not provide a copy of his tenancy agreement for this hearing but advised that his rent is due on the first of each month and that his agreement has a clause that late rent is subject to a \$25.00 late fee. The tenant submitted a cheque that bears the date of February 1, 2016, however the bank processing imprint notes it to be February 3, 2016. The tenant is the applicant in this matter and bears the burden of providing sufficient evidence to support his claim.

The tenants own documentary evidence appears to support the position of the landlord that the rent was paid late and a late fee was imposed. The tenant has not been able to adequately explain why the cheque was processed on February 3, 2016. Its unclear from the evidence before me if the tenant submitted the cheque late or if the landlord deposited it a couple of days after receiving it. Based on that uncertainty, the tenant has failed to meet the test as outlined in Section 67 of the Act and I therefore dismiss the tenants' application.

### Conclusion

The tenants' application is dismissed.

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: July 05, 2016

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Residential Tenancy Branch