



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes MNR, MNSD & FF

### Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. A monetary order in the sum of \$1300 for loss of rent.
- b. An Order to retain the security deposit.
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondents although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenants by mailing, by registered mail to where they reside on May 18, 2016. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided:

The issues to be decided are as follows:

- a. Whether the landlord is entitled to A Monetary Order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into an oral tenancy agreement that provided that the tenancy would start on February 1, 2016 and continue on a month to month basis.. The rent is \$1300 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$650 at the start of the tenancy.

On April 23, 2016 the tenant texted the landlord stating they were vacating the rental unit at the end of April. On April 24, 2016 the tenants gave the landlord written notice they were vacating the rental unit at the end of April. The tenants vacated the rental unit on or about May 2, 2016.

The landlord was not able to rent the rental unit for May despite sufficiently attempting to mitigate her loss. The landlord found a new tenant in May who took possession June 1, 2016.

The landlord lost the sum of \$1300 because of the tenants' failure to give sufficient notice.

Analysis - Monetary Order and Cost of Filing fee:

The Residential Tenancy Act provides that where a tenant wishes to end a month to month tenancy, the tenant must give a clear month written notice on or before the end of the rental payment period to be effective at the end of the ensuing rental payment period. Thus the Notice that was given on April 24, 2016 was not effective until May 31, 2016 and the tenants are responsible for the rent for May.

I determined the landlord has established a claim in the sum of \$1300 for loss of rent for May caused by the failure to give sufficient notice. I granted the landlord a monetary order in the sum of \$1300 plus the sum of \$100 in respect of the filing fee for a total of \$1400.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$650. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$750.

Conclusion:

I ordered that the Landlord shall retain the security deposit of \$650. In addition I further ordered that the Tenant(s) pay to the Landlord(s) the sum of \$750.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court 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: August 17, 2016

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Residential Tenancy Branch