



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNDC, MNSD, OPR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, for a monetary order for unpaid rent and utilities, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee from the tenant.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail, which was sent on August 19, 2016, the tenant did not appear. I find that the tenant has been duly served in accordance with the Act. A Canada post tracking number was provided as evidence.

### Preliminary matter

At the outset of the hearing the landlord's agent testified that the tenant vacated the rental unit on September 1, 2016. As a result they no longer require an order of possession.

### Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent and utilities?  
Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

### Background and Evidence

The tenancy began on April 22, 2016. Rent in the amount of \$1,200.00 was payable on the first of each month. The agent stated that although they only have a record of the tenant paying \$300.00 towards a security deposit. They will agree to the \$600.00 indicated in the tenancy agreement as they are unaware why there is a difference.

The landlord's agent testified that the tenant failed to pay rent for May, June, July 2016 and was served with a notice to end tenancy. The agent testified that the tenant did not pay the outstanding rent and did not pay subsequent rent for August 2016. The landlord seek compensation for unpaid rent in the amount \$4,800.00.

The landlord's agent testified that as a result of the tenant not vacated the rental unit on the effective date of the notice, which was August 1, 2016 and that the tenant overheld the premises until September 1, 2016. They were unable to rent the premises for September 2016. The landlord seeks to recover loss revenue for September 2016, in the amount of \$1,200.00.

The landlord's agent testified that the tenant did not pay their portion of the utilities as required by the tenancy agreement. The landlord seeks to recover unpaid utilities in the amount of \$267.55.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the tenant has failed to pay rent under the Act and tenancy agreement for May, June, July and August 2016, and this caused the landlord to suffer a loss. Therefore, I find the landlord is entitled to recover unpaid rent for the above amount in the total amount of **\$4,800.00**.

I accept the evidence of the landlord's agent that the tenant failed to vacate the rental premises on the effective date of the notice. I find the tenant was overholding the premises to September 1, 2016, and was unable to rent the premises for September 2016.

Since the tenant did not comply with the terms of the tenancy agreement or the Act, the landlord suffered a loss of rent for September 2016. I find the landlord is entitled to an amount sufficient to put the landlord in the same position as if the tenant had not breached the tenancy agreement or Act. Therefore, I find the landlord is entitled to recover loss of rent for September 2016, in the amount of **\$1,200.00**.

I further accept the evidence of the landlord's agent that the tenant failed to pay the utilities. I find the tenant has breached the Act and tenancy agreement when they failed to pay their utilities and this caused the landlord to suffer a loss. Therefore, I find the landlord is entitled to recover unpaid utilities in the amount of **\$267.55**.

I find the landlord has established a total monetary claim of **\$6,267.55** comprised of the rent owed, loss of rent, unpaid utilities and the \$100.00 fee paid by the landlord for this application. I order that the landlord retain the deposit and interest of **\$600.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$5,667.55**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant

Conclusion

The tenant failed to pay rent and did not file to dispute the Notice to End Tenancy, and vacated the rental unit. Therefore, an order of possession is not required.

The landlord is granted a monetary order and may keep the security deposit and interest, and have leave to apply for further monetary compensation.

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: October 11, 2016

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Residential Tenancy Branch

