



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF MNDC

### Introduction

This hearing dealt with an application by the landlord for a monetary order and recovery of the filing fee for this application. The tenant failed to appear for the hearing despite having been served with the Application for Dispute Resolution and Notice of Hearing sent by registered mail on March 24, 2016. The landlord provided the Canada Post tracking number for the registered package.

### Issue(s) to be Decided

Is the landlord entitled to the requested orders?

### Background and Evidence

This tenancy was supposed to begin on March 1, 2016. The tenant gave the landlord two cheques – one for the first month's rent and one for the security deposit. The rent was supposed to be \$1475.00 per month. The first month's rent cheque was post-dated for March 1, 2016. The landlord deposited the cheques on February 22, 2016 and even though they were post-dated, the bank processed the cheques. This angered the tenant because there were insufficient funds in the account at that time. As a result, the tenant refused to continue with the tenancy agreement and refused to move in on March 1<sup>st</sup>.

The landlord managed to find a new tenant for March 18, 2016 but has filed this application to recoup the first half of the rent for March due to the tenant's refusal to proceed with the contract.

The landlord testified that he did not intend for the bank to cash the cheques right away and tried to explain to the tenant how the error had happened.

### Analysis

The landlord has made a monetary claim of \$737.00 representing half a month's lost rent. The landlord makes this claim on the basis that he had an agreement with the tenant for the tenancy to commence March 1, 2016. The landlord acknowledged that the bank had made an error and that it was a serious one but he also argued that it did not justify the tenant breaching the tenancy agreement altogether.

I agree with the landlord. The tenant may have been inconvenienced but this bank error did not, in my view, give the tenant the right to cancel the tenancy agreement altogether. The tenant may have had a claim for NSF charges and the like but not the right to a repudiation of the whole agreement. The tenant is fortunate that the landlord was able to mitigate his loss so quickly and get new tenants in.

As a result, I am satisfied that the landlord has established this claim.

### Conclusion

I find that the landlord has established a total monetary claim of \$737.00 for the outstanding rent for March. The landlord is entitled to recover the \$100.00 filing fee for this application for a total award of \$837.00. This order may be filed in the Small Claims 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: October 31, 2016

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Residential Tenancy Branch

