



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SUNDEN MANAGEMENT LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MNDC, FF

### Introduction

On May 18, 2016, the Landlord applied requesting an order of possession; a monetary order for unpaid rent or utilities; for money owed or compensation for damage or loss under the *Residential Tenancy Act*, ("the Act") regulation, or tenancy agreement; and to recover the fee for the Application.

The matter was scheduled for a teleconference hearing. The Landlord attended the hearing; however, the Tenant did not. The Landlord provided affirmed testimony that the Notice of Hearing was served on the Tenant using Canada Post Registered Mail on May 20, 2016. The Landlord testified that the service indicates the Tenant picked the mail up on May 24, 2016. The Landlord provided the Registered Mail receipt number as proof of service. I find that the Tenant was served with the Notice of Hearing in accordance with sections 89 and 90 of the Act.

The Landlord was provided with an opportunity to ask questions about the hearing process. The Landlord was provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

At the start of the hearing the Landlord requested to amend the Application to request to keep all or part of the Tenant's security deposit in partial satisfaction of the claim for unpaid rent. The Landlord also requested that the Landlord's Application be amended to include the name of Central City Developments Ltd. as the Landlord. The Landlord's requests were granted and the Landlord's Application is amended.

The Landlord testified that the Tenant never moved into the rental unit. Therefore, I find that the Landlord's request for an order of possession is not required.

### Issues to be Decided

- Is the Landlord entitled to a monetary order for unpaid rent?
- Is the Landlord entitled to retain the security deposit in partial satisfaction of unpaid rent?
- Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The Landlord testified that the parties entered into a tenancy agreement to start on May 1, 2016, as a 6 month fixed term tenancy. Rent in the amount of \$980.00 was to be paid of the first day of each month. The Tenant paid a security deposit of \$490.00 to the Landlord. The Landlord provided a copy of the tenancy agreement that was signed by the parties on April 27, 2016.

The Landlord testified that the Tenant never moved into the rental unit. She testified that the Tenant never paid the rent for May 2016, and did not pick up the keys to the rental unit. The Landlord testified that the Tenant called the Landlord to say she no longer wanted to rent the unit.

The Landlord testified that she was able to rent the unit out to new Tenants on June 1, 2016.

The Landlord is claiming \$980.00 for loss of May 2016, rent. The Landlord requests to keep the security deposit of \$490.00 in partial satisfaction of the claim.

The Landlord provided documentary evidence of a letter from the Tenant dated May 12, 2016, in which the Tenant provides a forwarding address and requests the Landlord to return the security deposit.

### Analysis

Section 16 of the *Act* states that the rights and obligations of a Landlord and Tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the Tenant ever occupies the rental unit.

Based on the evidence and testimony before me, I find that the tenancy took effect on April 27, 2016, when the parties signed the tenancy agreement. I find that the Tenant was obligated to fulfill the terms of the tenancy agreement and did not end the tenancy in compliance with the tenancy agreement. I find that the Landlord rented out the rental

unit as soon as was practicable. I find that the Landlord is entitled to claim loss of rent for May 2016, in the amount of \$980.00.

The Landlord applied for dispute resolution within 15 days of receiving the Tenants written forwarding address. I order that the Landlord can keep the security deposit in the amount of \$490.00 in partial satisfaction of the Landlord's claim for loss of rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord's claim was successful, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a claim in the amount of \$1,080.00. After setting off the security deposit, I grant the Landlord a monetary order in the amount of \$590.00. This monetary 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 entered into a tenancy agreement but did not move into the unit or pay rent. The Tenant owes the Landlord \$980.00 for May 2016 rent. I order that the Landlord can keep the security deposit of \$490.00 in partial satisfaction of the Landlord's claim.

I grant the Landlord a monetary order in the amount of \$590.00.

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: November 15, 2016

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Residential Tenancy Branch