



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NPR GP INC (GENERAL PARTNER FOR NPR LIMITED PARTNERSHIP)  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNR, MND, MNDC, MNSD, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent, for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The landlord's agents (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence to the tenant's forwarding address via Canada Post Registered Mail on June 21, 2016. The landlord stated that an online search of the Canada Post website for tracking the package shows that notice(s) were left and that the package was subsequently returned to the landlord as the package was unclaimed. I accept the undisputed affirmed evidence of the landlord and find that the tenant was properly served as per sections 88 and 89 of the Act. The tenant in failing to claim the package is deemed sufficiently served 5 days later as per section 90 of the Act.

At the outset the landlord stated that the selection for an order of possession was made in error as the online system automatically defaulted to a request for an order of possession (OPR) when the landlord made a request for a monetary order for unpaid rent (MNR). As such, this portion shall be cancelled as an administrative error as the

landlord stated that the tenant had vacated the rental unit sometime between the end of May 2016 and June 9, 2016 when a condition inspection report was made by the landlord.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, damage, money owed or compensation for damage or loss and recovery of the filing fee?

Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

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

This tenancy began on January 1, 2016 on fixed term tenancy ending on December 31, 2016 as shown by the submitted copy of the signed tenancy agreement dated December 29, 2015. The monthly rent is \$825.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$299.00 was paid on December 15, 2015.

The landlord seeks a monetary order for \$3,172.50 which consists of:

\$825.00	Unpaid Rent, May 2016
\$25.00	Late Rent Fee, May 2016
\$50.00	NSF Charge, May 2016
\$825.00	Unpaid Rent, June 2016
\$25.00	Late Rent Fee, June 2016
\$50.00	NSF Charge, June 2016
\$462.50	Liquidated Damages
\$600.00	Lease incentive (\$100.00/month, January to June 2016)
\$140.00	Cleaning (4 hours at \$35/hr)
\$120.00	Garbage Removal (2 hours at \$30/hr X2 staff)
\$50.00	Mail Key and Laundry Card (\$25.00 each)

The landlord provided undisputed affirmed evidence that the tenant breached the fixed term tenancy prematurely by failing to pay rent for May 2016. The landlord stated that the tenant was served with a 10 Day Notice dated May 11, 2016 which stated that the tenant failed to pay rent of \$825.00 that was due on May 1, 2016. The tenant's rent cheque was returned as NSF. The landlord stated that the tenant vacated the rental

unit sometime between the end of May 2016 and June 9, 2016 without any notice. The landlord stated that since the 10 Day Notice dated May 11, 2016 was served no rent has been paid by the tenant as of the date of this hearing. The landlord stated that on June 9, 2016 the landlord completed a condition inspection report for the move-out without the tenant as the tenant has failed to respond to the landlord's communication attempts after providing her forwarding address. The landlord stated that on June 9, 2016 the landlord discovered that the tenant had vacated the rental unit leaving it dirty requiring cleaning along with garbage left throughout the rental unit. The landlord also stated that the tenant failed to return the mail key and the laundry card.

The landlord has submitted in support of this claim copies of:

- Signed Tenancy Agreement
- Copy of initialled Rules and Regulations
- Copy of Addendum to the Residential Tenancy Agreement for Drug-Free Housing
- Copy of Signed Laundry Machine Agreement
- Copy of Condition Inspection Report for the move-in/move-out
- Copy of 2 pages of email exchanges between the landlord and tenant
- Copy of 10 Day Notice dated May 11, 2016
- Copy of Proof of Service Document for 10 Day Notice

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the undisputed affirmed evidence of the landlord and find on a balance of probabilities that the landlord has established a monetary claim. The landlord has provided undisputed affirmed evidence that the tenant breached the fixed term tenancy by prematurely ending by failing to pay rent. The landlord has provided copies of the 10 Day Notice, copy of the signed tenancy agreement regarding liquidated damages, late rent fees, nsf charges and the lease rental incentive condition. The landlord has provided undisputed affirmed evidence that the tenant left the rental unit dirty with

garbage that required cleaning and removal of the garbage. The landlord provided undisputed affirmed evidence that the tenant failed to return the mail key and the laundry card. Based upon the above details, the landlord has established a monetary claim of \$3,172.50.

The landlord having been successful in the application is entitled to recovery of the filing fee of \$100.00.

I authorize the landlord to retain the \$299.00 security deposit in partial satisfaction of this claim. No interest is payable for this period of time.

### Conclusion

The landlord is granted a monetary order for \$2,973.50.

This order must be served upon the tenant. Should the tenant fail to comply with the 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: December 16, 2016

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Residential Tenancy Branch