



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding RANDALL NORTH REAL ESTATE SERVICES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNSD, FF

### Introduction

On May 17, 2017, the Landlord submitted an Application for Dispute Resolution for an order of possession; to keep the security deposit; and to recover the cost of the filing fee. The matter was set for a conference call hearing.

The Landlord's agent ("the Landlord") attended the teleconference hearing; however, the Tenants did not. The Landlord provided affirmed testimony that the Tenant, Ms. C.J. was served with the Notice of Hearing in person on May 20, 2017.

I find that the Tenant has been duly served with the Notice of Hearing in accordance with sections 89 and 90 of the *Residential Tenancy Act* ('the Act').

The Landlord was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

### Preliminary and Procedural Matters

The Landlord testified that the Tenants' moved out of the rental unit prior to the hearing. The Landlord no longer requires an order of possession, but wants to keep the security deposit in partial satisfaction of the unpaid rent.

The Landlord also withdrew the request to recover the cost of the filing fee.

### Issues to be Decided

- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the Landlord entitled to keep the security deposit towards unpaid rent?

### Background and Evidence

The Landlord testified that the tenancy began on September 1, 2013. Rent in the amount of \$666.25 is to be paid on the first day of each month. The Tenant paid the

Landlord a security deposit of \$325.00. The Landlord provided a copy of the tenancy agreement.

The Landlord testified that the Tenant did not pay the rent due under the tenancy agreement for the month of April 2017.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 19, 2017, ("the 10 Day Notice"). The Landlord testified that the Tenant was served with the Notice by posting it to the Tenant's door on April 19, 2017.

The Notice states that the Tenant, Ms. C.J. has failed to pay rent in the amount of \$666.25 which was due on April 1, 2017. The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

There is no evidence before me that that the Tenant made an application to dispute the Notice.

The Landlord testified that the Tenant did not pay the rent owing for April 2017, within five days of receiving the 10 Day Notice.

The Landlord testified that the Tenant still owes \$666.25 for April rent.

The Landlord seeks to keep the security deposit in partial satisfaction of the unpaid rent. The Landlord does not want a monetary order for the balance of the rent owing.

### Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant did not pay the outstanding rent within five days of receiving the Notice, and did not apply to dispute the Notice, and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Tenant owes the Landlord \$666.25 for April 2017, rent.

I order that the Landlord can keep the security deposit in the amount of \$325.00 in partial satisfaction of the claim for unpaid rent.

### Conclusion

The Tenant failed to pay the rent due under the tenancy agreement and did not file to dispute the Notice. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice.

I order that the Landlord can keep the security deposit in the amount of \$325.00 in partial satisfaction of the claim for unpaid rent.

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: June 14, 2017

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Residential Tenancy Branch