



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ROYAL LEPAGE NORTHSTAR REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR MNDC MNSD FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for: a monetary order for unpaid rent 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 the filing fee for this application from the tenant pursuant to section 72.

The tenants did not attend this hearing, although I waited until 1:42 pm in order to enable the tenants to connect with this teleconference hearing scheduled for 1:30pm. The landlord's representative ("the landlord") attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions with respect to the landlord's application.

The landlord testified that both tenants were served on January 26, 2017 with the landlord's Application for Dispute Resolution ("ADR") including a Notice of this hearing by registered mail to the forwarding address provided by the tenants at the end of tenancy. He submitted copies of two individual registered mail receipts and tracking information for both mailings. I find that the tenants were both deemed served in accordance with section 89 and 90 of the Act on January 31, 2015 (5 days after the registered mailing).

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent? Is the landlord entitled to retain the tenants' security deposit in partial satisfaction of the monetary order requested? Is the landlord entitled to recover the filing fee for this application?

### Background and Evidence

This tenancy began on June 1, 2015 as a 12 month fixed term with a rental amount of \$1350.00 payable on the first of each month. The tenancy continued on a month to month basis at the end of the fixed term. The rental amount was increased for the first time on September 1, 2016 to \$1389.00. The tenants vacated the residence on January 17, 2017. The landlord continues to hold the tenants' \$675.00 security deposit. The landlord applied to keep the deposit towards a total monetary amount of \$1389.00 and the \$100.00 filing fee for this application.

The landlord stated that the tenants were required to pay rent in January 2017 as they vacated the unit more than halfway through the month but that they did not pay rent. He submitted a copy of a 10 Day Notice to End Tenancy dated January 5, 2017 indicating January 2017 rent was not paid. He testified that, sometime prior to the first of the month the tenants put a stop-payment on their post-dated rent cheque for January 2017.

The landlord claims that the tenants did not dispute the 10 Day Notice and vacated the rental unit on January 17, 2017 after conducting a move-out inspection. The move-out condition inspection report did not record any damage to the rental unit or deduction to the tenants' security deposit. The landlord claims that he was unable to re-rent the unit for the remainder of January 2017 despite advertising and other efforts to do so. He testified that the rental unit was not re-rented until several months later.

The landlord testified that the tenants had not, as of the date of this hearing, paid January 2017 rent to the landlord.

### Analysis

The landlord's 10 Day Notice to End Tenancy dated January 5, 2017 provides evidence that January 2017 rent was not paid. The tenants resided in the rental unit until January 17, 2017. The tenants did not give any notice to the landlord of the date they would vacate the rental unit. Therefore, the landlord was unable to rent the unit for the remainder of January 2017 despite some effort to do so by the landlord when the tenants vacated the rental unit. I accept the landlord's undisputed testimony that it was only in the last month prior to this hearing that he was able to re-rent the unit.

As the landlord was not paid for January 2017 rent, and the tenants resided in the unit for more than half of the month with no clear indication of what day they would vacate

the unit, I find that the tenants are obliged to pay rent to the landlord for January 2017. The landlord continues to hold the tenants' security deposit and is entitled to retain the security deposit towards the unpaid rent amount pursuant to section 72 of the Act. As the landlord was successful in his application, he is also entitled to recover his filing fee.

### Conclusion

I issue a monetary order to the landlord as follows,

<b>Item</b>	<b>Amount</b>
Unpaid Rent (January 2017)	\$1389.00
Less Security Deposit	-675.00
Recovery of Filing Fee for this Application	100.00
<b>Total Monetary Order</b>	<b>\$814.00</b>

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: July 14, 2017

---

Residential Tenancy Branch