



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, 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 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;
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the landlord served the tenant with the notice of hearing package and the submitted 4 pages of documentary evidence. Both parties also confirmed that the tenant served to the landlord 27 pages of documentary evidence via Canada Post Registered Mail on July 17, 2017. I accept the undisputed affirmed testimony of both parties and find that both parties have been properly served as per sections 88 and 89 of the Act.

### Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent, for 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.

Both parties agreed that there is a signed tenancy agreement in which the monthly rent is \$750.00 with no designated date for the payable rent. A security deposit of \$375.00 was paid.

Both parties confirmed that the landlord served the tenant with the 10 Day Notice dated May 29, 2017. It states in part that the tenant failed to pay rent of \$1,250.00 that was due on April 1, 2017. It also provides for an effective end of tenancy date of May 29, 2017. The landlord was unable to explain why she selected an effective end of tenancy date of May 29, 2017.

The landlord claims that the tenant failed to pay rent for April 2017, May 2017, June 2017 and July 2017 as provided in her details of dispute.

The tenant disputes the landlords claim stating that no rent is in arrears.

The landlord stated that she had evidence before her that would support this claim, but did not provide it as she was not aware that it was required.

#### Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

I find that the landlord has failed to meet his burden of proof to show that the tenant owed rent. I reached this conclusion based on the conflicting evidence of the parties as well as the landlord's own confusion over the rental arrears. The landlord was unable to provide sufficient evidence to support her claim that rent was not paid. As such, the 10 Day Notice dated May 29, 2017 is set aside. The tenancy shall continue.

#### Conclusion

The landlord's application is dismissed.

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 26, 2017

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Residential Tenancy Branch