



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

**Dispute Codes**      CNR MNDC MNSD

### **Introduction**

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46.
- authorization to obtain a return of all or a portion of her security deposit pursuant to section 38; and
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67.

The landlord's agent, KA ('landlord') spoke on behalf of the landlord in this hearing and had full authority to do so. Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package ("Application") and evidence. In accordance with sections 88 and 89 of the *Act*, I find that the landlord was duly served copies of the tenant's application and evidence. The landlord did not submit any written evidence for this hearing.

As the tenant confirmed receipt of the 10 Day Notice to End Tenancy for Unpaid Rent ('10 Day Notice') on June 1, 2017, I find that this document was duly served to the tenant in accordance with section 88 of the *Act*.

At the beginning of the hearing the landlord indicated that they were cancelling the 10 Day Notice dated June 1, 2017 and was no longer seeking an Order of Possession. As the landlord was no longer seeking an end to this tenancy based on the 10 Day Notice, this portion of the tenant's application was withdrawn.

**Issue(s) to be Decided**

Is the tenant entitled to monetary compensation for loss or other money owed under the Act, regulation or tenancy agreement?

Is the tenant entitled to the return of their security deposit?

**Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began on June 1, 2017. Monthly rent is currently set at \$800.00. The landlord collected a security deposit of \$400.00 and still holds that deposit. The tenant still resides in the rental suite.

The tenant testified that she was subject to disrespectful and threatening behaviour from the landlord. She testified that she was called “bonkers” by the landlord, and the landlord would talk about her to others. The tenant testified that she suffered from stress, and deserved \$1,000.00 for the aggravation, which is the amount of her monetary claim. The tenant testified that the amount is a “nice round number” that fits the level of aggravation she suffered from the landlord's false accusations.

The tenant testified that there was an incident when she was in the hospital and she had left a message with the landlord's agent to give access to a neighbour to look after her cat. The tenant testified that the landlord had entered her suite without her permission contrary to her instructions.

The landlord's agent testified in the hearing that she had received a long message from the tenant who requested that her cat had food and water. The landlord testified in this hearing that she went into the unit herself, with another tenant as a witness, to provide the food and water to the cat as she believed the situation to be an emergency since the tenant was in the hospital after suffering a heart attack, and had requested someone to feed her cat. The landlord's agent testified that she had attempted to reach the tenant's neighbour without any success, and was concerned about the state of the tenant's cat. The landlord further testified that they did not have the phone number of the tenant's

neighbour, and had considered the tenant's request as permission to enter her apartment for the purpose of feeding her cat.

### **Analysis**

The tenant provided undisputed sworn evidence in this hearing that the landlord had entered her suite on at least one occasion. Section 29 (1) of the *Act* prohibits the landlord's right to enter the rental suite except with proper notice or the tenant's permission. The landlord's right to enter a rental unit is restricted, and the landlord must not enter unless:

- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
- (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:
  - (i) the purpose for entering, which must be reasonable;
  - (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
- (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
- (d) the landlord has an order of the director authorizing the entry;
- (e) the tenant has abandoned the rental unit;
- (f) an emergency exists and the entry is necessary to protect life or property.

The landlord testified in the hearing that she entered the tenant's suite only on the request of the tenant as the tenant was in the hospital and had requested the landlord contact her friend to feed her cat. The landlord testified that she was unable to contact the tenant's friend, and out of concern for the life of the cat, the landlord entered the unit herself to feed the cat and only for that purpose. The landlord took steps to ensure that she was accompanied when she entered the unit, and it was undisputed that the landlord entered only for the purpose of attending to the tenant's cat.

Section 29(1)(f) of the Act allows the landlord to enter a rental unit in the case of an emergency, and the entry is necessary for the protection of life or property. In this case the tenant was in the hospital due to an emergency, and was concerned for the life and well-being of her cat. It was undisputed that the tenant had left a message with the landlord's agent to deal with the situation that involved the life and well-being of the cat. It was also undisputed that the landlord had attended the tenant's suite for the sole purpose of attending to the tenant's cat. On this basis, I find that the landlord had acted in accordance with section 29(1)(f) of the *Act*, and the tenant's application for monetary compensation is dismissed.

The tenant had also applied for the return of her security deposit. Section 38(1) of the *Act* requires a landlord, within 15 days of the end of the tenancy or the date on which the landlord receives the tenant's forwarding address in writing, to either return the deposit or file an Application for Dispute Resolution seeking an Order allowing the landlord to retain the deposit. As this tenancy has not yet ended, I dismiss this portion of the tenant's application.

### **Conclusion**

The landlord's 10 Day Notice dated June 1, 2017 is cancelled and this tenancy is to continue until ended in accordance with the *Act*, regulation, and tenancy agreement.

The tenant's entire monetary 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: September 1, 2017

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Residential Tenancy Branch