



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR OPR FF

### **Introduction:**

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 10:45 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 10:30 a.m. on April 24, 2018. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord confirmed she personally served a 10 Day Notice for unpaid rent dated March 3, 2018 to be effective March 13, 2018. The landlord also personally served the Application for Dispute Resolution on the tenant. Proofs of service were provided in evidence. I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Sections 46 and 67 for unpaid rent;
- b) An Order of Possession pursuant to sections 46 or 47 and 55; and
- c) An order to recover the filing fee pursuant to Section 72.

### **Issue(s) to be Decided:**

Is the landlord entitled to an Order of Possession and a Monetary Order for rental arrears? Is she entitled to recover two filing fees, one for a January filing and one for today's Application?

### **Background and Evidence:**

The landlord stated that the tenancy commenced in December 2017, that rent is \$1300 a month inclusive and a security deposit of \$650 was paid. She states that the tenant has not paid rent for March or April 2018 and the tenant vacated on April 15, 2018. The

tenant did not attend and did not file an Application or any evidence to dispute the amount owing.

The landlord requests a double filing fee. An agent attended a hearing on January on her behalf. However it was dismissed with leave to reapply due to lack of proof of service of documents and the matter in issue.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

**Analysis:**

I find the landlord no longer requires an Order of Possession as the tenant has vacated.

**Monetary Order:**

The onus is on the applicant to prove on a balance of probabilities their claim. I find the landlord's evidence credible that the tenant has not paid rent for March or April 2018.

Two Notices to End Tenancy were submitted as evidence and the tenant has not disputed the amount owing. I find the landlord entitled to \$1300 in rent arrears and \$1300 for over holding rent after the effective date of the Notice to End Tenancy.

The landlord wishes to retain the security deposit in trust as there are damages. I advised her to read section 38 of the Act and ensure she complies with the time limits to deal with the security deposit. She said the tenant has not yet provided her with a forwarding address in writing.

In respect to her claim for two filing fees, I find her first Application in January 2018 was dismissed for lack of proof of service of the Notice to End Tenancy and lack of evidence submitted. This dismissal was caused by her own actions so I find the tenant not liable for a filing fee for the landlord's unsuccessful application. I find the landlord entitled to recover the filing fee for this application as it was successful.

**Conclusion:**

I find the landlord entitled to a monetary order as calculated below and to recover \$100 for her filing fee. The tenant's security deposit remains in trust to be dealt with in accordance with section 38 of the Act.

Calculation of Monetary Award:

Rent arrears (March) and over holding rent (April)	2600.00
Filing fee	100.00
<b>Total Monetary Order to Landlord</b>	<b>2700.00</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: April 24, 2018

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Residential Tenancy Branch