



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding EQUITABLE REAL ESTATE INVESTMENT CORPORATION  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNRL-S FFL

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking a monetary order for unpaid rent or utilities; an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

The tenant and an agent for the landlord attended the hearing and each gave affirmed testimony. The parties were given the opportunity to question each other and give submissions. No issues with respect to service or delivery of documents or evidence were raised and all evidence has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenant for unpaid rent?
- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

### Background and Evidence

**The landlord's agent** testified that this tenancy began on May 15, 2016 and the tenant vacated the rental unit on September 28, 2017. Rent in the amount of \$1,500.00 per month was originally payable on the 1<sup>st</sup> day of each month which was raised from time to time and had been increased to \$1,555.00 per month effective June 1, 2017. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$750.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The landlord also collected a \$30.00 fob deposit and the fobs were returned to the landlord by the tenant. A copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord further testified that on February 9, 2017 the tenant had given notice to vacate the rental unit effective August 31, 2017 by email, but changed his mind and on August 17, 2017 emailed the landlord stating that the move was changed to October 31, 2017. Copies of the emails have been provided as evidence for this hearing. September's rent was paid, and the tenant moved out September 28, 2017 and paid no rent for October.

The landlord believed the tenant wasn't living in the rental unit and was renting it on Air BNB which caused the landlord to deactivate one of the fobs.

The move-out condition inspection report was completed on October 2, 2017 which is when the landlord received the tenant's forwarding address in writing. The landlord commenced advertising the rental unit on Craigslist on October 1, 2017 and the rental unit was re-rented for October 15, 2017. The landlord claims the first 2 weeks of October rent, and seeks to keep the security deposit in partial satisfaction.

**The tenant** testified that the landlord had deactivated a fob to enter the building. On September 27, 2017 he told the landlord it was too much stress. The landlord showed the tenant how she could deactivate the fob remotely and the tenant took that as a threat fearing he'd be locked out.

The tenant further testified that the landlord threatened a collection agency to get an additional \$100.00 per month for an additional occupant. Nothing was mentioned in the tenancy agreement or verbally about guests until the tenant gave notice to end the tenancy.

### Analysis

A tenant who vacates a rental unit must give the landlord a notice in writing no less than one month before the effective date of vacancy and must give that notice the day before rent is payable under the tenancy agreement. In this case the landlord's agent testified that on August 17, 2017 the tenant gave notice to vacate at the end of October, 2017 by email. That is not an acceptable method for giving such notice however it was accepted as official notice by the landlord.

Given that the landlord had notice that the rental unit would be vacant effective October 31, 2017, I find that the landlord, by advertising on Craigslist on October 1, 2017, did what was reasonable to mitigate any loss of rental revenue and was able to re-rent for October 15, 2017.

The tenant's position is that the landlord "threatened" to deactivate the remaining fob and the tenant feared he would not be able to get his belongings out of the rental unit.

The tenant had alternative solutions to any such threat, such as to pay rent for October and remain a tenant until the end of the month as per his notice to vacate.

In the circumstances, I am satisfied that the landlord has established a claim of half a month's rent for October, 2017, totalling \$777.50.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

The landlord currently holds a \$30.00 fob deposit and a \$750.00 security deposit, for a total of \$780.00. I order the landlord to keep both deposits in partial satisfaction of the claim and I grant the landlord a monetary order as against the tenant for the difference in the amount of \$97.50.

### Conclusion

For the reasons set out above, I hereby order the landlord to keep the \$750.00 security deposit and the \$30.00 fob deposit and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$97.50.

This order is final and binding and may be enforced.

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: May 25, 2018

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Residential Tenancy Branch