



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR MND MNDC MNSD FF

### **Introduction:**

Both parties attended and gave sworn testimony. The landlord said they served the Application for Dispute Resolution on the tenant by registered mail. The tenant denied receipt of it or of any Notices concerning it. He said he got notice of the hearing by email from the Residential Tenancy Branch. The landlord wanted an adjournment to produce evidence of service; however, many more issues of service were raised concerning evidence and the inability to open a USB key that was served. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Sections 7, 46 and 67 for unpaid rent and damages;
- b) To retain the security deposit to offset the amount owing; and
- c) An order to recover the filing fee pursuant to Section 72.

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

Have the documents been legally served? Has the landlord proved on a balance of probabilities that the tenant damaged the property, that it was beyond reasonable wear and tear and the cost of repair? Is the landlord entitled to recover the filing fee?

### **Background and Evidence:**

Both parties attended the hearing and a significant dispute was raised on service of most of the documents. I discussed the option of dismissing the application with leave to reapply so each party could legally serve their evidence for a subsequent hearing. They preferred to continue discussing the situation. The undisputed evidence is the tenancy commenced March 1, 2017, rent was \$1575 a month and a security deposit of \$787.50 was paid. It is undisputed that the tenant served a Notice to End Tenancy on the landlord on April 30, 2018 to end his tenancy on that day. He said he presumed he had paid the last month's rent as had happened in other areas. The landlord confirmed it was a security deposit he paid and he is liable for the last month's rent unless he

gives a full month's notice. The landlord confirmed he had not been able to re-rent the unit for May 2018.

I discussed the law with the parties.

Section 45 of the Act applies to the Tenant's notice

*45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that*

*(a) is not earlier than one month after the date the landlord receives the notice, and*

*(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.*

After realizing his responsibility to compensate the landlord for one month's rent because of the short notice, the tenant discussed a possible settlement agreement. The parties freely and voluntarily entered into negotiation and settled on the following terms and conditions:

**Settlement Agreement:**

1. The landlord will receive a monetary order for \$800 to be paid by the tenant in 6 equal installments of \$133.33 by postdated cheques.
2. The landlord will keep the security deposit of \$787.50 in full settlement of the rent or other monies owed by the tenant.
3. This agreement settles all matters between the parties in respect of this tenancy.

**Analysis**

**Monetary Order**

Pursuant to the above noted settlement agreement, I find the landlord entitled to retain the security deposit and to receive a monetary order for \$800 to be paid in 6 equal installments, each in the amount of \$133.33 by post dated cheques.

**Conclusion:**

In full settlement of this matter, I find the landlord entitled to retain the security deposit and to receive a monetary order for \$800 to be paid in 6 equal installments, each in the amount of \$133.33 by post dated cheques. No filing fee is awarded as the matter was settled for a firm amount of compensation.

I dismiss the other claims of the landlord in this application without leave to reapply as he freely and voluntarily settled his outstanding claims against the tenant for an agreed amount in the hearing.

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 11, 2018

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Residential Tenancy Branch