



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCT, FFT

### Introduction

This hearing was scheduled in response to the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for damage or compensation under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant and the landlord attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Section 71 of the *Act* permits me the authority to deem a party sufficiently served with documents even if service did not occur in a manner that is required under the *Act*. In this case, neither party served documents in accordance with the *Act*. However, since both parties acknowledged receipt of documents from the other party, pursuant to section 71 of the *Act*, I deemed both parties to be sufficiently served with each other's documents. Accordingly I referred to these documents in making my decision.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order for damage or compensation under the *Act*, *Regulation* or tenancy agreement?

Is the tenant authorized to recover the filing fee for this application from the landlord?

### Background and Evidence

As per the testimony of both parties, the tenancy was to begin on August 1, 2018. The parties did not enter into a formal written tenancy agreement rather they negotiated a tenancy through text messages. Rent in the amount of \$1,200.00 was payable on the

first of each month. The tenant remitted a security deposit in the amount of \$600.00 on July 11, 2018 and the landlord reimbursed this deposit to the tenant on August 2, 2018.

The tenant contended that the landlord ended the tenancy on August 2, 2018 with a text message and a 10 Day Notice. The tenant testified that as a result she could not start her new job and therefore seeks the following monetary compensation;

| Item              | Amount     |
|-------------------|------------|
| Lost Wages        | \$2,304.00 |
| Difference in pay | \$224.00   |
| Total Claim       | \$2,528.00 |

In the documentary evidence the tenant explained that because she could not take the new job and did not obtain employment until some four weeks later she seeks to recover compensation in the amount \$2,304.00 (32 hours/week x 4 weeks = 128 hours x \$18). The tenant testified that she had to temporarily take a lower paying job and therefore seeks to recover the wage adjustment in the amount of \$224.00 (\$2.00/hour x 112 hours).

The landlord testified that the tenant failed to pay rent on August 1, 2018 and attempted to renegotiate the terms of payment which in his view, effectively cancelled the agreement. The landlord testified that on August 2, 2018 he posted a 10 Day Notice to the door of the rental unit and emailed a copy to the tenant. The landlord disputed that he should be held liable for the monetary amounts sought by the tenant.

In reply, the tenant acknowledged that she failed to pay rent on August 1, 2018.

### Analysis

Pursuant to section 16 of the *Act*, the rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit.

The tenancy, that is, the right to occupy the unit, often begins at a later date. In this case, I find the tenancy agreement began on July 11, 2018 as triggered by the payment of the security deposit, and the tenancy was to commence on August 1, 2018. Because the tenancy agreement began on July 11, 2018, this is when the provisions of the *Act* became enforceable in the relationship between the tenant and landlord.

Section 7 of the *Act* establishes that upon entering a tenancy agreement, a tenant is obligated to pay rent and a landlord is obligated to provide the premises as agreed to in

the tenancy agreement. If either party fails to fulfill their obligations, the other becomes entitled to compensation. I find the tenant's claim to compensation is a direct result of her own non-compliance with the *Act*, specifically her failure to pay rent pursuant to the tenancy agreement. Therefore, I dismiss the tenant's claim in the amount of \$2,528.00.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for the application.

### Conclusion

The tenant's application is dismissed without leave to reapply.

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: December 06, 2018

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Residential Tenancy Branch