



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FFL, MNDL-S, MNRL-S

### Introduction

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

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security and pet deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- an order authorizing the landlord the recovery of the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted via teleconference and was attended by the landlord. No one was in attendance on behalf of the tenant. The landlord submitted documentary evidence that the tenant was served notice of this application and this hearing by registered mail on October 20, 2018. Canada Post tracking information was submitted in the landlord's evidence that shows that the item was unclaimed by the tenant. Based on the submissions of the landlord, I find the tenant was served in accordance to section 89 of the *Act*. Therefore, I continued in the absence of the tenant.

### Issue to be Decided

Is the landlord entitled to a monetary award for damage arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to the recovery of the filing fee?

### Background, Evidence

The landlord's undisputed testimony is as follows. The tenancy began on November 20, 2017 and ended on September 30, 2018. The tenant was obligated to pay

\$1850.00 per month in rent in advance and at the outset of the tenancy the tenant paid a \$925.00.00 security deposit and \$925.00 pet deposit which the landlord still holds. The landlord testified that on September 27, 2018 the tenant advised that she would be moving out on September 30, 2018.

The landlord testified that he advised the tenant that as they were on a month to month tenancy she was required to provide him one full calendar month notice but the tenant still vacated after giving only three days' notice. The landlord testified that he was unable to rent the unit for October and lost one month's revenue. The landlord testified that he originally sought some flooring costs but no longer seeks that portion of his application. The landlord seeks to retain the deposits to cover the loss of revenue plus an additional \$100.00 for the filing fee.

### Analysis

Section 45 of the Act addresses the issue before me as follows:

#### **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.

The landlord provided extensive documentation and undisputed testimony to support their application. I find that the tenant did not act in accordance to the above section and as a result caused the landlord to lose one month's revenue. I find that the landlord is entitled to \$1850.00 for the loss of revenue for the month of October 2018 along with the recovery of the filing fee of \$100.00.

### Conclusion

The landlord has established a claim for \$1950.00. I order that the landlord retain the \$925.00 security deposit and \$925.00 pet deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 of the Act for the balance due of \$100.00.

This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: February 08, 2019

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Residential Tenancy Branch