



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL-S, MNDCL, FFL

### Introduction

This hearing was scheduled to convene at 1:30 p.m. this date by way of conference call concerning an application made by the landlord seeking a monetary order for unpaid rent or utilities; a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; 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 landlord attended the hearing, gave affirmed testimony, and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call. The landlord testified that the Application for Dispute Resolution and notice of this hearing (the Hearing Package) were served upon the tenant by email on April 5, 2020. The landlord was permitted to provide proof of such service after the hearing concluded. I have now received copies of the email of the landlord and response from the tenant.

The Director's Order dated March 30, 2020 states that until the declaration of state of emergency expires, Sec 88 or 89 documents can be served by email with acknowledged receipt; or email with a response but without identifying a problem of transmission; or by email if person served has routinely used, and deemed served on 3 days. In this case, the tenant's reply to the landlord's email states that the tenant has received the documents, and I am satisfied that the tenant has been served in accordance with the Order of the Director.

### Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenant for unpaid rent?

- Has the landlord established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for loss of rental revenue?
- 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 testified that this fixed-term tenancy began on August 1, 2019 and was to revert to a month-to-month tenancy after July 31, 2020. However, the tenant vacated the rental unit on April 14, 2020. Rent in the amount of \$950.00 was due on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$475.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a basement suite, and the landlord resides in the upper level of the home. A copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord further testified that on March 29, 2020 the tenant served the landlord with notice to end the tenancy which was effective April 18, 2020. The tenant had not paid any rent for March, and did not pay any rent for April, 2020, and the landlord claims \$1,900.00.

The landlord advertised the rental unit on Facebook for the same rental amount as soon as the rental unit was cleaned and again ready for re-renting, and was successful in finding a new tenant effective June 1, 2020. Given that the tenancy was a fixed-term tenancy, the landlord claims \$950.00 for May's rent.

The landlord also testified that the tenant has not provided a forwarding address in writing, but only an email address to return the security deposit by way of e-transfer. The tenant has not served the landlord with an Application for Dispute Resolution claiming the security deposit, and the landlord applies to keep it in partial satisfaction of the landlord's claim.

### Analysis

I have reviewed the tenancy agreement, and I am satisfied that the term of the tenancy was to expire on July 31, 2020 and then revert to a month-to-month tenancy. I also accept the undisputed testimony of the landlord that the tenant did not pay any rent for March or April, 2020, and the landlord has established a claim of \$1,900.00.

A tenant may not end a tenancy earlier than the date specified in the tenancy agreement, if the tenancy is for a fixed term, unless the landlord agrees in writing. However, the landlord must do whatever is reasonable to mitigate any loss of rental revenue by advertising the rental unit within a reasonable time. In this case, I accept the undisputed testimony of the landlord that the rental unit was advertised on Facebook in May, 2020, soon after the tenant vacated. The fixed term was to expire on July 31, 2020 and the landlord re-rented for the same amount of rent effective June 1, 2020. Therefore, I am satisfied that the landlord has mitigated and is entitled to recover rent for June, 2020 in the amount of \$950.00.

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

I order the landlord to keep the \$475.00 security deposit in partial satisfaction, and I grant a monetary order in favour of the landlord for the difference, totalling \$2,475.00 ( $\$950.00 \times 3 = \$2,850.00 + \$100.00 = \$2,950.00 - \$475.00 = \$2,475.00$ ).

### Conclusion

For the reasons set out above, I hereby order the landlord to keep the \$475.00 security 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 \$2,475.00.

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: August 07, 2020

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Residential Tenancy Branch