



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

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

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:44 a.m. in order to enable him to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that she posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door on July 6, 2012. She entered oral and written evidence that she sent the tenant a copy of the landlord's dispute resolution hearing package by registered mail on July 19, 2012. She provided a copy of the Canada Post Tracking Number and Customer Receipt to confirm this mailing. She said that the tenant has not picked up the registered mail hearing package. I am satisfied that the landlord served the above documents to the tenant in accordance with the *Act*.

At the commencement of the hearing, the landlord testified that the tenant vacated the rental unit by the end of July 2012. As such, she said that she already has possession of the rental unit and there was no need to proceed with her application for an Order of Possession. At the landlord's request, the landlord's application to end this tenancy and obtain an Order of Possession is withdrawn.

### Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent? 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 recover the filing fee for this application from the tenant?

### Background and Evidence

This tenancy was established by way of a three-month fixed term tenancy agreement that commenced on March 1, 2012. When the initial term expired, the tenancy continued as a periodic tenancy. Monthly rent was set at \$600.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$300.00 security deposit paid on February 24, 2012.

The landlord's application for a monetary award of \$1,235.00 included the following items:

<b>Item</b>	<b>Amount</b>
Unpaid July 2012 Rent	\$600.00
July 2012 Late Fee	25.00
Lost Key	10.00
Unpaid August 2012 Rent	600.00
<b>Total Monetary Award Requested</b>	<b>\$1,235.00</b>

The landlord also applied for the recovery of the \$50.00 filing fee for this application.

At the hearing, the landlord gave undisputed testimony that the tenant has not paid anything towards his outstanding balance as set out in the detailed rent ledger entered into written evidence since the landlord's issuance of the 10 Day Notice. The landlord noted that the late fee is set out in the residential tenancy agreement. The landlord said that the premises will require considerable work to restore it to a state where the rental unit can be re-rented to another tenant. The landlord has no such tenant obtained for August 2012 and doubts whether one can be secured to offset any portion of the landlord's rental loss for August 2012.

### Analysis

Based on the landlord's undisputed oral and written evidence, I find that the landlord is entitled to recover rental losses for July and August 2012, the July 2012 late fee and the recovery of the \$10.00 fee for replacing the tenant's key. I also allow the landlord to retain the tenant's security deposit plus applicable interest in partial satisfaction of this monetary award. No interest is payable over this period. As the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee from the tenant.

Conclusion

I issue the following monetary Order in the landlord's favour which enables the landlord to recover unpaid rent, a late fee, a key replacement fee and the filing fee and to retain the tenant's security deposit:

<b>Item</b>	<b>Amount</b>
Unpaid July 2012 Rent	\$600.00
July 2012 Late Fee	25.00
Lost Key	10.00
Unpaid August 2012 Rent	600.00
Less Security Deposit	-300.00
Filing Fee	50.00
<b>Total Monetary Order</b>	<b>\$985.00</b>

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: August 09, 2012

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Residential Tenancy Branch