



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NPR Limited Partnership  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MNSD, MNDC, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for 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 tenants for the cost of the application.

An agent for the landlord company attended the hearing, however despite being individually served by registered mail with the Landlord's Application for Dispute Resolution, evidence and notice of hearing package on May 29, 2014, no one for the tenants attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the landlord's agent. The landlord's agent testified that the tenants were served on that date and in that manner, and orally provided 2 tracking numbers assigned by Canada Post, and I am satisfied that the tenants have been served in accordance with the *Residential Tenancy Act*.

All evidence and testimony provided has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenants for unpaid rent?
- Has the landlord established a monetary claim as against the tenants for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for liquidated damages?

- 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's agent testified that this fixed term tenancy began on July 1, 2013 and was to expire on June 30, 2014, however the tenants moved out of the rental unit on April 21, 2014. Rent in the amount of \$950.00 per month was payable on the 1<sup>st</sup> day of each month according to the tenancy agreement, a copy of which has been provided. On May 9, 2013, the landlord collected a security deposit from the tenants in the amount of \$475.00 and on May 13, 2013 the landlord collected a pet damage deposit in the amount of \$475.00. Both deposits are still held in trust by the landlord.

The landlord has also provided a copy of a document entitled Early Termination by Tenant (Fixed Term Tenancy Agreement) signed by the tenants dated March 31, 2014. The document states that the tenants notify the landlord of their intention to vacate the rental unit on April 30, 2014 and agree to pay rent to June 30, 2014 if the rental unit is not re-rented prior to that date. The landlord's agent testified that the rental unit was re-rented for the same amount of rent commencing June 15, 2014. The tenants paid rent in full for the month of April, 2014, however the rent cheque was returned by the financial institution for insufficient funds. The tenants further failed to pay rent for the month of May, 2014. The landlord claims the unpaid rent for April and May, 2014, but is not claiming the 2 weeks in June that the rental unit remained vacant.

The landlord also claims liquidated damages as set out in the tenancy agreement. The agreement states that the tenants will pay \$475.00 for such damages, not as a penalty, but as costs associated with re-renting the rental unit. The landlord's agent testified that the landlord claims a lesser amount of \$225.00.

The landlord's agent testified that a move-in condition inspection report was completed at the beginning of the tenancy and a move-out condition inspection report was completed by the parties on April 21, 2014. A copy has been provided for this hearing, and the move-out portion is dated April 21, 2014 and shows signatures of the tenants. The document shows that the tenants agree to the landlord retaining the security deposit and pet damage deposit for unpaid rent and damages. The landlord received the tenants' forwarding address in writing on that date as well.

The landlord claims \$950.00 for April's rent; \$950.00 for May's rent; \$225.00 for liquidated damages; for a total of \$2,125.00 and an order permitting the landlord to keep the security deposit in partial satisfaction of the claim.

Analysis

I accept the testimony of the landlord's agent which I find is consistent with the evidence provided. I am satisfied that the landlord has established that the tenants are indebted to the landlord for unpaid rent for the months of April and May, 2014 in the amount of \$950.00 for each month. I have reviewed the move-out condition inspection report and I am satisfied that the tenants acknowledged owing the rent, and that the tenants agreed that the landlord could keep the security deposit and pet damage deposit. I am also satisfied that the tenants agreed in writing to pay rent to the end of June, 2014.

With respect to the landlord's claim for liquidated damages, I have reviewed the tenancy agreement, and I find that the tenants agreed to those terms at the commencement of the tenancy and the landlord has established the claim. The landlord has graciously reduced the amount from \$475.00 to \$225.00, and I make that order.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee.

I hereby order the landlord to keep the \$475.00 security deposit and the \$475.00 pet damage deposit in partial satisfaction, and I grant a monetary order in favour of the landlord for the difference in the amount of \$1,225.00.

Conclusion

For the reasons set out above, I hereby order the landlord to keep the \$475.00 security deposit and the \$475.00 pet damage deposit, and I grant a monetary order in favour of the landlord as against the tenants for the difference in the amount of \$1,225.00.

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: September 10, 2014

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Residential Tenancy Branch

