



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PARKLANE MANOR  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR & OPR, MNR, MNDC, MNSD, FF

### Introduction

This hearing dealt with cross applications from the parties. By date, the first is the tenant's application pursuant to the *Act* for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46.

The second application is the landlords' 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, for damage or loss under the *Act*, regulation or tenancy agreement 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.

Both parties attended the hearing and were given full opportunity to be heard, to present their sworn testimony, to make submissions and to call witnesses. Both parties agreed to a resolution of this matter.

The landlords' agent testified and provided documentary evidence that he served the tenant with the 10 Day Notice on October 3, 2014 by posting it on the tenant's door. Based on the tenant's confirmation of receipt of this 10 Day Notice and pursuant to section 88 and 90 of the *Act*, I find the tenant deemed served with the 10 Day Notice on October 6, 2014, three days after its posting on the tenant's door.

This hearing dealt with cross applications. Both parties filed for dispute resolution. The landlord's agent testified that he received the tenant's application for dispute resolution package on October 7, 2014. Pursuant to section 88 and 89 of the *Act*, I find the

landlords duly served with the tenant's notice for dispute resolution and package on October 7, 2014. The tenant testified that he received the landlord's application for dispute resolution package on November 4, 2014. Pursuant to section 88 and 89 of the *Act*, I find the tenant duly served with the landlords' notice for dispute resolution and package on November 4, 2014. Both parties provided documentary evidence for the hearing and both parties, landlord and tenant, confirmed receipt of the other's materials with the dispute resolution packages.

### Issues to be Decided

Should the landlords' 10 Day Notice be cancelled?

If not, are the landlords entitled to an Order of Possession for unpaid rent?

Are the landlords entitled to a monetary award for unpaid rent?

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

Are the landlords entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

This month to month tenancy began in 2011. Rent is payable in the amount of \$585.00 on the first day of each month. The tenant acknowledges failure to pay rent completely and on time from September 2014 until November 2014. He acknowledges an outstanding balance in unpaid rent of \$950.00. The landlords' application requests a monetary award in the amount of \$950.00.

<b>Item</b>	<b>Amount</b>
Unpaid Rent – October 2014 (tenant paid \$220.00)	\$365.00
Unpaid Rent – November 2014	585.00
<b>Landlords' Total Monetary Request</b>	<b>\$950.00</b>

### Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the

hearing the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

The landlords' agent acting on behalf of the landlords and the tenant agreed to the following final and binding settlement of all issues currently under dispute at this time, namely unpaid rent:

1. The tenant agreed to pay arrears in rent as follows:

November 19, 2014: the tenant will pay \$600.00 by midnight.

November 25, 2014: the tenant will pay \$350.00 by midnight.

2. Both parties agreed that if the tenant does not comply with the above monetary terms by midnight on November 25, 2014, that this mutual agreement will become null and void, permitting the landlord to take further action under the *Residential Tenancy Act* at that time.
3. In the event that the tenant complies with the monetary terms of the agreement and this tenancy continues, the landlord and tenant agreed to the following terms as a part of the continuing tenancy;

(a) The landlord agreed to accept rent for December 2014, as follows;

December 1, 2014: the tenant will pay \$100.00 by midnight.

December 17, 2014: the tenant will pay \$ 485.00 by midnight.

4. Both parties agreed that, in the event that this tenancy continues and in accordance with the provisions of the *Residential Tenancy Act*, particularly section 26, and the written tenancy agreement between these parties, regular monthly rental payments in the full amount of \$585.00 are to be paid by the tenant by January 1, 2015 and thereafter as required, on the first day of each month.

### Conclusion

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$950.00. I deliver this Order to the landlord in support of the above agreement for use **only** in the event that the tenant does not abide by the monetary terms of the above settlement as outlined above in section 1 of their settlement agreement. 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 after a failure to comply with the monetary terms of section 1 of the above settlement agreement. 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: November 28, 2014

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Residential Tenancy Branch

