



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD & FF

### Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent
- b. A monetary order in the sum of \$2325 for unpaid rent and damages
- c. An Order to retain the security deposit.
- d. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered. I ordered that the Application for Dispute Resolution be amended so that it correctly spelled the name of the female landlord.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy was personally served on the Tenant on one month July 13, 2016. Further I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenant by mailing, by registered mail on September 14, 2016. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a one year fixed term written tenancy agreement that provided that the tenancy would start on June 15, 2014, end on June 30, 2015 and become month to month after that. The rent is \$1550 per month payable on the first day of each month. The tenant paid a security deposit of \$775 at the start of the tenancy. The tenancy ended on August 29, 2016.

The landlord testified the tenant's rent cheque for August was returned NSF and the sum of \$1550 is owed for that month..

### Analysis - Order of Possession:

It is no longer necessary to consider the landlord's application for an Order for Possession as the Tenant has vacated the rental unit and the landlord has regained possession.

### Analysis - Monetary Order and Cost of Filing fee:

With respect to each of the landlord's claims I find as follows:

- a. I determined the landlord is entitled to \$1550 for non payment of the rent for August 2016. I do not accept the testimony of the Tenant that the landlord agreed to forgo the rent for August. I accept the testimony of Witness #1 that he did not agree on behalf of the landlord to forgo the rent for August and that while there was discussion about issuing a 2 month Notice but the landlord decided to issue a one month Notice instead. A 2 month Notice was not issued. The tenant failed to prove he was entitled to stay in the rental unit rent free. The tenant received the benefit of living in the rental unit for August and is responsible to pay the rent.
- b. The landlord claimed \$775 for the cost of repairs and cleaning. She testified her claim was in excess of \$2500 but she is limiting the claim to the security deposit. The landlord testified the door had to be replaced because the tenant cut a hole in it (\$320 cost for the door), the laminate flooring had to be replaced because of gouges and scratches, the rental unit reeked of cat urine, cleaning was not satisfactory etc. The landlord failed to provide photographs of the damage or receipts to repair the alleged damage (the work has not yet been completed as was part of a renovation. The Tenant disputes the landlord's claim. He testified the door was a hollow door and did not cost the amount alleged by the landlord. He further testified that he spent 8 hours cleaning. He accepted responsibility for \$375. In the face of conflicting evidence I determined the landlord is entitled to \$500 of this claim.

In summary I determined the landlord has established a claim against the Tenant in the sum of \$2050 plus \$100 in respect of the filing fee for a total of \$2150.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$775. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$1375.

Conclusion:

I ordered that the Landlord shall retain the security deposit of \$775. In addition I further ordered that the Tenant(s) pay to the Landlord(s) the sum of \$1375.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: December 05, 2016

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Residential Tenancy Branch