



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes:

Tenant: MT CNR CNC LRE OLC SS O  
Landlord: OPR, MNR, MNSD, MNDC, MND, FF

### Introduction

This hearing was convened in response to cross- applications by the parties pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows. The tenant applied August 16, 2017 to cancel Notices to End and other items associated with a continuing tenancy. At the outset of the hearing the tenant informed they had vacated and were no longer seeking remedy to any matters placed in their application. As a result their application was preliminarily **dismissed**.

The landlord applied September 01, 2017 for an order of possession and a monetary order for unpaid rent and to retain the security deposit in partial satisfaction of their monetary claim, as well as to recover their filing fee. At the outset of the hearing the landlord confirmed the tenant's testimony they had vacated the unit days earlier and were therefore solely seeking unpaid rent as the balance of their application was deemed premature. The hearing proceeded on the merits of the landlord's claims.

Both parties attended the hearing and were given opportunity to present all relevant evidence and relevant testimony in respect to their claims and to make relevant prior submission to the hearing and participate in the conference call hearing. Prior to concluding the hearing both parties acknowledged they had presented and addressed all of the relevant evidence in their respective applications.

**Issue(s) to be Decided**

Is the landlord entitled to the monetary amounts claimed?

**Background and Evidence**

The tenancy started January 01, 2017. Rent in the amount of \$700.00 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$350.00 which they retain in trust. The tenant and landlord agreed the tenant failed to pay rent in the months of July through to October 2017 in the sum of \$2800.00.

**Analysis**

On preponderance of the relevant evidence I find as follows.

Section 26 of the Act in relevant part states;

**Rules about payment and non-payment of rent**

- 26** (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I find I have not been presented with evidence the tenant had a right under the Act to deduct all or a portion of the rent. Based on the evidence of both parties I find that the landlord has established a monetary claim for unpaid rent. The landlord is also entitled to recovery of the filing fee. The security deposit will be off-set from the award made herein. *Calculation for Monetary Order is as follows;*

Unpaid rent July, August September, October 2017 (\$700.00 x 4 )	\$2800.00
Landlord's filing fee for the cost of application	\$100.00
<i>Less tenant's security deposit in trust</i>	<i>-\$350.00</i>
<b>Total Monetary Award / landlord</b>	<b>\$2550.00</b>

**Conclusion**

The tenant's application is **dismissed**, without leave to reapply. The landlord's application for unpaid rent is granted. The balance of their claim is dismissed with leave to reapply.

**I Order** that the landlord retain the security deposit of \$350.00 in partial satisfaction of the claim and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$2550.00**. If the tenant does not satisfy this Order the Order may be filed in the Small Claims Court and enforced as an Order of that Court.

**This Decision is final and binding.**

*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: October 10, 2017

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Residential Tenancy Branch