



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR OPR MNSD FF

### **Introduction:**

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:15 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. on November 6, 2018. The landlord attended the hearing and gave sworn testimony and was given a full opportunity to be heard, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord said they served the 10 Day Notice to End Tenancy dated September 7, 2018 to be effective September 17, 2018 by posting it on the tenant's door on September 7, 2018 and served the Application for Dispute Resolution by registered mail (number provided). I find evidence that the tenant was notified of the registered mail by the postal service on October 2, 2018 and after other notices, it was returned to the sender as it was unclaimed. I find the documents were legally served pursuant to sections 88 and 89 of the Act and the Application is deemed to be served pursuant to section 90 for the purposes of this hearing.

The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Sections 46 and 67 for unpaid rent;
- b) An Order of Possession pursuant to sections 46 and 55;
- c) To retain the security deposit to offset the amount owing; and
- d) An order to recover the filing fee pursuant to Section 72.

### **Issue(s) to be Decided:**

Is the landlord entitled to an Order of Possession and a monetary order for rental arrears and to recover the filing fee for this application?

### **Background and Evidence:**

The landlord provided evidence that rent was owed in the amount of \$7000 when the Notice to End Tenancy was served on September 7, 2018. The tenant paid none of this

rent and vacated about the middle of October without notice. The evidence is that the tenancy commenced January 1, 2018, a security deposit of \$1100 was paid and rent was \$1600 a month (reduced from \$2200 due to circumstances involving another suite). The landlord no longer requires an Order of Possession as the tenant has vacated but requests a monetary order for unpaid rent plus filing fee and to retain the security deposit to offset the amount owing. Unpaid rent is shown as \$1600 x 5 months (June to October 2018) for a total of \$8000.00.

In evidence is the Notice to End Tenancy, the landlord's rental ledger and proof of service. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

**Analysis:**

Monetary Order:

The onus is on the applicant to prove on a balance of probabilities their claim. I find the tenant owes \$8000 to the landlord for rent from June 1, 2018 to October 31, 2018. Although the tenant vacated mid October, I find rent is due on the first of the month and the tenant vacated with no notice so the landlord did not have an opportunity to re-rent the unit so lost the rent for October 2018. I find the landlord may retain the security deposit of \$1100 to offset the amount owing.

**Conclusion:**

I find the landlord entitled to a monetary order as calculated below. The calculation includes an award of the filing fee and retention of the security deposit to offset the amount owing.

Calculation of Monetary Award:

Unpaid and over holding rent (5x1600)	8000.00
Filing fee	100.00
Less security deposit (no interest 2012-17)	-1100.00
Total Monetary Order to landlord	<b>7000.00</b>

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 06, 2018

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Residential Tenancy Branch