



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's 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 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;
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the landlord served the tenant in person with the notice of hearing package on October 24, 2017 then again with the amendment to an Application in person on April 6, 2017. Both parties also confirmed that neither party submitted any documentary evidence. As both parties have attended and have confirmed receipt of the notice of hearing package, I am satisfied that both parties have been sufficiently served as per section 90 of the Act.

At the outset, both parties confirmed that the tenant had vacated the rental premises at the end of March 2017 and that possession was no longer an issue.

### Issue(s) to be Decided

Are the landlords entitled to a monetary order for unpaid rent and recovery of the filing fee?

Are the landlords entitled to retain all or part of the security deposit?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlords seek a monetary claim of \$915.00 for unpaid rent.

The landlords provided undisputed affirmed testimony that monthly rent was \$1,830.00 per month and that the tenant along with her roommate failed to pay all of the March 2017 rent. The landlords stated that monthly rent was normally paid by cheque by each of the two tenants, but one of the \$915.00 rent cheques was returned by her financial institution as a "stopped payment". As of the date of this hearing neither of the two tenants has paid the outstanding \$915.00 rent.

The tenant confirmed in her direct testimony that the \$915.00 "stopped payment" rent cheque was stopped by her roommate as a protest regarding issues of the tenancy. The tenant confirmed that no order has been granted by the Residential Tenancy Branch authorizing the tenants to withhold rent.

Both parties also confirmed that no orders have been issued for the status of the \$875.00 security deposit.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In this case, I accept the undisputed affirmed evidence of both parties and find that the tenant failed to pay all of the \$1,830.00 monthly rent. The landlord provided undisputed affirmed testimony that the tenant's roommate placed a "stop payment" on one of the two monthly rent cheques of \$915.00. The tenant provided undisputed affirmed testimony that the \$915.00 unpaid portion as of the date of this hearing has not been paid to the landlords, nor has the tenant or her roommate obtained an order authorizing the tenants to withhold any rent. As such, I find that the landlord has established a monetary claim for \$915.00 in unpaid rent for March 2017.

In offsetting this claim, I authorize the landlords to retain the \$875.00 security deposit in partial satisfaction of this claim. I also find that as the landlords have been successful in their application that they are entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlords are granted a monetary order for \$135.00.

This order must be served upon the tenant. Should the tenant fail to comply with the 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: April 28, 2017

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Residential Tenancy Branch