



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ANTHEM DOMINION HOLDINGS LIMITED PARTNERSHIP  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, MNR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for unpaid rent, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee from the landlord.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

### Background and Evidence

The tenancy began on April 1, 2016. Rent in the amount of \$850.00 was payable on the first of each month. A security deposit of \$425.00 was paid by the tenant. The tenancy ended on February 12, 2017.

The landlord claims as follows:

a.	Unpaid rent for January 2017 and February 2017	\$1,700.00
b.	Filing fee	\$ 100.00
	<b>Total claimed</b>	<b>\$1,800.00</b>

The landlord's agent testified that the tenant did not pay rent for January 2017 and February 2017. The landlord stated that the tenant was served with a notice to end tenancy on the basis of unpaid rent.

The tenant testified that they did not pay the rent. The tenant stated that they would like to make the landlord payments in the amount of \$400.00, per month commencing August 16, 2017, and the like sum on the 16<sup>th</sup> of each month thereafter.

The landlord's agent stated that they would agree to the payment scheduled.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Section 26 of the Residential Tenancy Act states:

*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.*

The parties agreed that the tenant did not pay rent for January 2017 and February 2017. I find the tenant breached section 26 of the Act, and this caused losses to the landlord. I find the landlord is entitled to recover unpaid rent in the amount of **\$1,700.00.**

I find that the landlord has established a total monetary claim of **\$1,800.00** comprised of the above described amount and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$425.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1,375.00.**

The parties agreed during the hearing that the tenant would pay the balance due at the rate of \$400.00 per month, commencing August 16, 2017 and the like sum to be paid

each month thereafter until paid in full. The parties agreed that the tenant will attend at the landlord's agent's office at 9:00am on the 16<sup>th</sup> of each month and the tenant would pay the above said amount by debit. Any missed payments the balance due is immediately payable and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### Conclusion

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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: July 18, 2017

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Residential Tenancy Branch