



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FF, MNR

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for unpaid rent under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony. Neither party submitted any documentary evidence for this hearing.

### Issue to be Decided

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

Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background, Evidence

The landlord's testimony is as follows. The tenancy began on September 15, 2016 and was to be a fixed term until September 30, 2017 however the tenancy ended on December 31, 2016. Rent was to be paid by no later than the first of each month. The tenants were obligated to pay \$2250.00 per month in rent in advance and at the outset of the tenancy the tenants paid an \$1125.00 security deposit. The landlord testified that the tenant did not pay the rent for November and the landlord issued a notice to end tenancy for unpaid rent on November 10, 2016 and served that notice to the tenant personally. The landlord testified that the tenant failed to pay the rent for December as well. The landlord testified that the unit safe and habitable.

The landlord is applying for the following:

1.	Unpaid Rent for November – December 2016	\$4600.00
2.	Filing Fee	100.00
3.		
4.		
5.		
6.		
	<b>Total</b>	<b>\$4700.00</b>

The tenant testified that there was a fire in the unit next to hers. The tenant testified that her unit was unsafe and that she doesn't think it's fair for her to pay rent for November and December. The tenant testified that she didn't pay the rent for November and December.

### Analysis

In the tenants own testimony she does not dispute that she has not paid the rent for the months in question. The tenant felt justified in withholding the rent, however the tenant did not have the landlords consent or an order from the Branch allowing her to do so. The tenant wanted to have her concerns and issues dealt with in this hearing. It was explained to both parties that if they had any outstanding issues that they could not resolve between them, they were at liberty to file a separate application if they so choose. It was further explained that this decision will only address the application before me. Both parties indicated that they understood.

Based on the undisputed evidence before me, I am satisfied that the tenants continue to owe the landlord unpaid rent. Although the landlord has not applied to retain the \$1125.00 security deposit, using the offsetting provision under Section 72 of the Act, I hereby apply the security deposit against the amount of unpaid rent for an award of \$3575.00. The landlord is also entitled to the recovery of the \$100.00 filing fee. I issue a monetary award in the landlord's favour in the amount of \$3675.00.

### Conclusion

I grant the landlord an order under section 67 for the balance due of \$3675.00. This order may be filed in the Small Claims 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: July 05, 2017

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Residential Tenancy Branch