



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR MNR FF

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. A participatory hearing was held on January 24, 2018. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for unpaid rent or utilities;
- a monetary order for unpaid rent or utilities;
- to recover the filing fee from the Tenants for the cost of this application.

Both parties attended the hearing and provided testimony. The Tenants acknowledge receiving the application package and the Notice of Hearing in person. The Tenants also acknowledged receiving the Landlord's evidence on November 10, 2017.

The Landlord testified that the Tenants moved out of the rental unit in November of 2017. As such, she no longer requires an order of possession. In consideration of this, I hereby amend the Landlord's application accordingly and will not be addressing her request for an order of possession any further.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the landlord entitled to a monetary order for unpaid rent or utilities?
2. Is the landlord entitled to recover the filing fee from the Tenants for the cost of this application?

### Background and Evidence

The Landlord testified that monthly rent is \$1,800.00, and is due on the first of the month.

The Landlord provided a copy of the 10 Day Notice to End Tenancy for Unpaid Rent and Utilities (the 10 Day Notice), which she personally served to the Tenants on November 2, 2017. The Tenants acknowledge receiving the 10 Day Notice on this day. At the top of the 10 Day Notice, the Landlord specified that the Tenants owed \$1,800.00 in rent at the time the notice was issued. The Landlord said this is the only month still unpaid.

During the hearing, the Tenants both stated that there were many deficiencies with the rental unit. As a result of these issues, they withheld rent for November and were served with the 10 Day Notice.

### Analysis

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

Section 26 of the *Act* confirms that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of rent.

I find there is no evidence before me to indicate the Tenants had a right under the *Act* to withhold rent. I find it important to note that, even if the Tenants felt there were deficiencies with the rental unit, the Tenants were still required to pay rent to the Landlord. The Tenants should have paid rent on time, and applied for dispute resolution to have the issues addressed, rather than withhold their rent. However, this did not occur.

With respect to the Landlord's request for a Monetary Order for unpaid rent, I find there is sufficient evidence from both parties to demonstrate that the Tenants owe and have

failed to pay \$1,800.00 in rent for November of 2017. I find the Landlord is entitled to a monetary order for this amount.

Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Landlord was substantially successful in this hearing, I order the Tenants to repay the \$100. In summary, I grant the monetary order based on the following:

<b>Claim</b>	<b>Amount</b>
Unpaid rent: November of 2017	\$1,800.00
Filing fee	\$100.00
<b>TOTAL:</b>	<b>\$1,900.00</b>

### Conclusion

The landlord is granted a monetary order pursuant to Section 67 in the amount of **\$1,900.00**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: January 24, 2018

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Residential Tenancy Branch