



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPC, OPU, MNRL, FFL

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) filed by the Landlord under the *Residential Tenancy Act* (the “Act”), for a Monetary Order for unpaid rent and recovery of the filing fee, and for an Order of Possession.

The hearing was convened by telephone conference call and was attended by the Landlord and the Tenant L.H., both of whom provided affirmed testimony. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. Neither party raised any concerns regarding the service of documentary evidence.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure. However, I refer only to the relevant facts and issues in this decision.

At the request of the Landlord, copies of the decision and any orders issued in their favor will be e-mailed to them at the e-mail address provided in the Application. At the request of the Tenant, copies of the decision will be mailed to them at the address provided in the hearing.

### Preliminary Matters

At the outset of the hearing the parties agreed that the Tenants vacated the rental unit on November 30, 2017. As a result, the Landlord withdrew their Application for an Order of Possession and the hearing proceeded as scheduled in relation to the Landlord’s monetary claim for outstanding rent and recovery of the filing fee.

Throughout the hearing the Tenant provided testimony in relation to their own claims for damage and loss, however, there was no application before me from the Tenants in relation to damage or loss or any other matter. I advised the Tenant of the application process should they wish to file a claim. At the end of the hearing the Tenant also provided the Landlord with their forwarding address.

### Issue(s) to be Decided

Is the Landlord entitled to a Monetary Order for outstanding rent and recovery of the filing fee pursuant to sections 67 and 72 of the *Act*?

### Background and Evidence

The tenancy agreement in the documentary evidence before me indicates that the tenancy began on June 1, 2017, and that rent in the amount of \$850.00 was due on the first day of each month. Both parties agreed that these are the correct terms of the tenancy agreement and that neither a pet damage deposit nor a security deposit were paid.

The parties agreed that the Tenants vacated the rental unit on November 30, 2017, and that as of the date of the hearing, no rent had been paid for November 2017.

### Analysis

Section 26 of the *Act* states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the *Act*, regulations, or the tenancy agreement, unless the tenant has a right under this *Act* to deduct all or a portion of the rent. Although the Tenant provided some testimony in relation to what they believe to be damages owed to them for the loss of services and facilities throughout their tenancy, the Tenants did not file a cross-application seeking monetary damages and there was no evidence before me that the Tenants had a right under the *Act*, regulations or the tenancy agreement, to deduct all or a portion of the rent owed for November 2017.

Based on the documentary evidence and testimony before me, I find that the Tenants were therefore obligated to pay the monthly rent of \$850.00 on time and in full each month and I am satisfied that the Tenants owe the Landlord \$850.00 in outstanding rent for November, 2017. Pursuant to section 72 of the *Act*, I also find that the Landlord is entitled to the recovery of the \$100.00 filing fee. Based on the above, and pursuant to

section 67 of the *Act*, the Landlord is therefore entitled to a Monetary Order in the amount of \$950.00; \$850.00 in outstanding rent for November, 2017, plus the \$100.00 filing fee.

Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$950.00. The Landlord is provided with this Order in the above terms and the Tenants must be served with this Order as soon as possible. Should the Tenants fail to comply with this Order, this 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: February 8, 2018

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Residential Tenancy Branch