



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL-S OPU

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession and a monetary order for unpaid rent or utilities and an order permitting the landlord to keep all or part of the pet damage deposit or security deposit.

The landlord attended the hearing with a witness and both gave affirmed testimony, however the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenants joined the call. The landlord testified that each of the tenants were served with notice of this hearing and evidentiary material by registered mail on December 22, 2017 and was permitted to provide proof of such service after the hearing concluded. I have now received 2 Registered Domestic Customer Receipts addressed to each of the tenants and a Canada Post cash register receipt bearing that date, and I am satisfied that the tenants have both been served in accordance with the *Residential Tenancy Act*.

During the course of the hearing the landlord advised that the parties had attended a dispute resolution hearing on January 10, 2018 wherein the landlord was granted an Order of Possession effective February 1, 2018, and therefore an Order of Possession is not sought today.

### Issue(s) to be Decided

The issues remaining to be decided are:

- Has the landlord established a monetary claim as against the tenants for unpaid rent or utilities?
- Should the landlord be permitted to keep all or part of the pet damage deposit or security deposit in full or partial satisfaction of the claim?

### Background and Evidence

The landlord testified that this fixed-term tenancy began on September 1, 2016 and expired on August 31, 2017 thereafter reverting to a month-to-month tenancy, and the tenants still reside in the rental unit. Rent in the amount of \$1,700.00 per month was originally payable under the tenancy agreement, on the 1<sup>st</sup> day of each month, which was reduced by the landlord to \$1,300.00 per month effective June, 2017. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$850.00 as well as a pet damage deposit in the amount of \$250.00, both of which are still held in trust by the landlord. A copy of the tenancy agreement has been provided for this hearing.

The landlord further testified that the tenants didn't pay any rent for September or October, 2017 when it was due and the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. A copy has been provided for this hearing and it is dated October 11, 2017 and contains an effective date of vacancy of October 26, 2017 for unpaid rent in the amount of \$1,700.00 that was due on October 1, 2017 and unpaid utilities in the amount of \$564.93 following a written demand on October 11, 2017. The landlord testified that the landlord was out of the country at that time and the landlord's witness prepared the notice not knowing what rent had been previously collected or not collected by the landlord prior. The notice ought to have read unpaid rent in the amount of \$2,600.00 that was due on October 1, 2017 because the tenants didn't pay any rent for September, 2017. The tenants have not paid any rent since it was issued and are now in arrears of rent the sum of \$6,500.00 for September, 2017 through January, 2018. A tenant ledger has also been provided for this hearing.

Since this application was made, the tenants have paid the utilities, however another bill will become due likely at the end of February, 2018, but the landlord is not certain how much it will be, and is shared equally with another tenant in the rental building. The tenants have still not vacated the rental unit.

The landlord's witness testified that the landlord had agreed to reduce rent to \$1,300.00 per month effective June 1, 2017, and the amount of rent owed written on the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was an error, and ought to have read \$2,600.00 that was due on October 1, 2017.

### Analysis

I have reviewed the evidentiary material of the parties, and I am satisfied that the tenants failed to pay any rent for the months of September, 2017 through January, 2018. I am also satisfied that the monthly amount is \$1,300.00, and the landlord is entitled to recover

\$6,500.00. Since the tenants have not yet vacated the rental unit, the landlord is also entitled to \$1,300.00 for February, 2018.

The landlord does not yet have the final utility bills, and I dismiss the landlord's application for a monetary order for unpaid utilities with leave to reapply.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

I hereby order the landlord to keep the \$850.00 security deposit and \$250.00 pet damage deposit in partial satisfaction of the claim and I grant a monetary order in favour of the landlord as against the tenants for the difference in the amount of \$6,800.00.

### Conclusion

For the reasons set out above, I hereby order the landlord to keep the \$850.00 security deposit and the \$250.00 pet damage deposit, and I grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$6,800.00.

The landlord's application for a monetary order for unpaid utilities is hereby dismissed with leave to reapply.

This order is final and binding and may be enforced.

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 08, 2018

---

Residential Tenancy Branch