



# 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, via teleconference, was held on March 20, 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; and,
- to recover the filing fee from the tenants for the cost of this application.

The Landlord attended the hearing and provided testimony. The tenant did not attend the hearing.

The Landlord testified that the tenant moved out of the rental unit on March 8, 2018. The Landlord further testified that before the Tenant moved out, a copy of the Application for Dispute Resolution, evidence, and the Notice of Hearing was sent to her rental unit by registered mail on January 25, 2018. I find the tenant received this package on January 30, 2018, the fifth day after its registered mailing, pursuant to Section 90 of the *Act*.

The Landlord was 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.

The Landlord testified that since the Tenant has moved out, he no longer needs an order of possession. I have amended the application accordingly.

### 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 tenant for the cost of this application?

### Background and Evidence

The Landlord testified that monthly rent is \$975.00 and is due on the first of the month. The Landlord stated that he currently holds a security deposit of \$487.50. The Landlord stated that the Tenant still owes the following rent:

- October 2017 - \$75.00
- November 2017 - \$975.00
- December 2017 - \$975.00
- January 2018 - \$975.00
- February 2018 - \$975.00

The Landlord stated that the Tenant did not vacate the unit until March 8, 2018, and he would like to recover those 8 days of rent on a pro-rated basis on top of the above amounts. The Landlord asked for \$31.45 per day for these 8 days ( $\$975.00/31$  days in March x 8 days), amounting to \$251.60.

The Landlord also asked to recover the cost of the filing fee (\$100.00). Adding up all of the above, the Landlord is asking for a total of \$4,326.00, or \$3,839.10 after

### Analysis

Based on the unchallenged affirmed testimony, 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.

With respect to the agent's request for a Monetary Order for unpaid rent, I find as follows:

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 tenant to repay the \$100. Also, pursuant to sections 72 of the *Act*, I authorize that the security deposit, currently held by the landlord, be kept and used to offset the amount of rent still owed by the tenant. In summary, I grant the monetary order based on the following:

Unpaid rent:

- October 2017 - \$75.00
- November 2017 - \$975.00
- December 2017 - \$975.00
- January 2018 - \$975.00

- February 2018 - \$975.00
- March 2018 (8 days) - \$251.60
- Total Rent owed: \$4,226.60

Plus: Filing Fee: \$100.00

Minus: Security Deposit currently held \$487.50

**Total amount of monetary order: \$3,839.10**

Conclusion

The landlord is granted a monetary order pursuant to Section 67 in the amount of **\$3,839.10**. This order must be served on the tenant. If the tenant fails 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: March 22, 2018

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Residential Tenancy Branch