



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, FF

### Introduction

This matter commenced by the Direct Request process. On January 22, 2018, the Adjudicator determined that this matter should be adjourned to a participatory hearing, which was scheduled before me on this day. The interim decision of the Adjudicator should be read in conjunction with this decision.

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, for a monetary order for unpaid rent and to recover the filing fee from the tenant.

The landlord and the landlord's agent attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The landlord's agent testified that they complied with the interim decision and the Notice of Hearing was sent by registered mail sent on January 28, 2018.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act.

The landlord and the landlord's agent appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

### Preliminary and procedural issue

At the outset of the hearing the landlord's agent stated that the tenant and their guests vacated the premises on March 2, 2018. Since the landlord has possession of the rental unit, I find it not necessary to consider the landlord's request for an order of possession.

Further, I find it appropriate to amend the landlord's application to claim any subsequent unpaid rent since their application was filed.

### Issue to be Decided

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

### Background and Evidence

The parties entered into a written tenancy on October 16, 2017. Rent in the amount of \$800.00 was payable on the first of each month. No security deposit was paid.

The landlord's agent testified that the tenant has not paid any rent from November 2017 to March 2018, for a total of five months. The landlord seeks to recover unpaid rent in the total amount of \$4,000.00.

### Analysis

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

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Section 26 of the Residential Tenancy Act states:

**26** (1) *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

I accept the evidence of the landlord's agent that the tenant failed to pay rent from February 2017 to March 2018. I find the tenant has breached section 26 of the Act when they failed to pay rent when due under the tenancy agreement and this has caused

losses to the landlord. Therefore, I find the landlord is entitled to recover unpaid rent in the amount of **\$4,000.00**.

I find that the landlord has established a total monetary claim of **\$4,100.00** comprised of the above described amount and the \$100.00 fee paid for this application. I grant the landlord an order under section 67 of the Act.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

### Conclusion

The tenant failed to pay rent. The landlord is entitled to a monetary order in the above amount.

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