



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held on June 11, 2018. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent or utilities.

The Landlord provided testimony at the hearing. The Tenant did not attend the hearing.

The Landlord testified that he sent a copy of the Notice of Hearing along with supporting documentary evidence to the Tenant on November 8, 2017, by registered mail. The Landlord provided a copy of the registered mailing receipt. I find the Tenant received this package on November 13, 2017, the fifth day after its registered mailing, pursuant to Section 90 of the *Act*.

The Landlord has requested to amend his application to include rent that has accrued since the original application date. I turn to the following Rules of Procedure (4.2):

### **Amending an application at the hearing**

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

In consideration of this, I allow the Landlord to amend his application accordingly.

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.

### Issues to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent or utilities?

### Background and Evidence

The Landlord testified that monthly rent is \$1,850.00, and is due on the first of the month. The Landlord testified that he holds a security deposit in the amount of \$850.00. The Landlord also stated that the Tenant has lived there since July of 2011, and starting in 2015, he started having trouble paying for his rent. The Landlord stated that he was too generous and gave the Tenant too many chances to pay, and now he is out a significant amount of money. The Landlord stated that the Tenant moved out at the end of January 2018.

The Landlord stated that the Tenant ran into money troubles in September of 2015, and this is the beginning of the missed payments. The Landlord stated that from the period of September 1, 2015, until January 30, 2018, the Tenant only made 3 payments as follows: 1) February 5, 2016 - \$1,850.00 2) February 28, 2016 - \$5,000.00 3) September 12, 2016 - \$11,000.00. As a result, the Landlord stated that the Tenant still owes the majority of his rent, and owes a total of \$35,800.00.

In summary, the Landlord stated that over the period of September 1, 2015 until January 30, 2018, the amount of rent payable was \$53,650.00 (29 months x \$1,850.00). Over this period, the Landlord stated the Tenant only paid the three payments as specified above and his total payments during that period were \$17,850.00. Total rent payable over this period, minus what was actually paid, leaves a balance owing of \$35,800.00

### Analysis

Based on the unchallenged 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.

With respect to the Landlord's request for a Monetary Order for unpaid rent, I find there is sufficient evidence from the Landlord's undisputed documentary evidence and testimony before me to demonstrate that the Tenant owes and has failed to pay \$35,800.00 in rent from the period of September 1, 2015, until January 30, 2018.

Section 72 of the *Act* allow me to 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:

<b>Claim</b>	<b>Amount</b>
Unpaid rent: September of 2015 through till January 30, 2018	\$35,800.00
<b>Less:</b>	
Security Deposit currently held by Landlord	(\$850.00)
<b>TOTAL:</b>	<b>\$34,950.00</b>

### Conclusion

The Landlord is granted a monetary order pursuant to Section 67 in the amount of **\$34,950.00**. 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: June 11, 2018

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Residential Tenancy Branch