



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL, FFL

### Introduction

The landlord filed an application for dispute resolution on June 19, 2018, pursuant to section 59 of the *Residential Tenancy Act* (the “Act”). The landlord seeks the following relief under sections 67 and 72 (1) of the Act:

1. a monetary order for unpaid rent in the amount of \$1,820.00; and,
2. a monetary order for recovery of the filing fee in the amount of \$100.00.

This is my decision in respect of the landlord’s application.

A dispute resolution hearing was convened on September 28, 2018, and the landlord and a tenant attended the hearing before me, were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The parties did not raise any issues regarding service of documents.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issues of this application is considered in my decision.

### Issues to be Decided

1. Is the landlord entitled to a monetary order for unpaid rent in the amount of \$1,820.00?
2. Is the landlord entitled to a monetary order for recovery of the filing fee in the amount of \$100.00?

### Background and Evidence

The landlord testified that the tenancy began in August 2014. Monthly rent was \$1,100.00, due on the first of the month. The tenants paid a security deposit, which was transferred to a new landlord who purchased the building (in which the rental unit is situated) in June 2018.

The landlord submitted into evidence a copy of a written tenancy agreement, for a tenancy (presumably renewed) on September 1, 2016.

In his application, the landlord claims compensation in the amount of \$1,820.00, which consists of several months of unpaid “back rent.” In support of his application, the landlord submitted into evidence a copy of a two-page document titled “Paymet [sic] Rundown From Sept 2017 to June 2018”, which itemizes an accumulating amount of unpaid rent totalling \$1,820.00. The landlord testified that the tenant has not paid any of this amount to him, and is in arrears for that amount.

In response, while the tenant did not dispute that he has not paid rent, he testified that “we had several leaks” in the rental unit, and that the strata company did not want to do anything about the repairs. As such, the tenant ended up doing the repairs himself. The repairs were necessary due to his girlfriend’s health issues, and that her immune system would be compromised if mold resulted from the leaks. The tenant repaired the walls, and he also had to replace the shower head and the faucet in the kitchen.

In total, the tenant testified that there were five different leaks. He has spent a significant amount of time and money in making these repairs, and that he is, in effect, owed this amount by the landlord.

In rebuttal, the landlord remarked that he “doesn’t know what he’s talking about” and that this is the first time he is aware of repairs being made, other than a very brief reference to such repairs in a text message conversation. The landlord referred to, and submitted into evidence, screenshots of text message conversations between the parties from October 1, 2017 to June 8, 2018, inclusive. Excerpts of those conversation are referred to in my Analysis, below.

The tenant, in rebuttal, testified that the parties “did have a conversation about the repairs.”

## Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. The landlord seeks a monetary order for unpaid rent and for recovery of the filing fee.

Section 26 of the Act requires 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 the Act to deduct all or some of the rent.

The landlord testified, and provided documentary evidence to support his submission, that the tenants did not pay rent when it was due, and that the tenants are in arrears in the amount of \$1,820.00.

The tenant did not dispute the amount claimed, but rather, argued that he is somehow not responsible for paying the landlord this amount because of repairs that he undertook in the rental unit. There are only a few reasons under the Act why a tenant may withhold rent, and the tenant did not argue that any of these sections applies to this case. The repairs made were not emergency repairs that the landlord refused to do. Indeed, the tenant was unable to provide any dates for any of the repairs, nor did he submit any receipts for expenses related to those repairs. In summary, there is no evidence before me to find that the tenant had a right under the Act to deduct all or some of the rent.

Further, I note that in reviewing the text conversations between the parties, it appears that the tenant agrees that they owed the landlord \$1,820.00. One portion of the text conversation reads as follows (May 31, 2018):

Landlord:	So [tenant]. Can you please respond. Thanks.
Tenant:	Be at your moms tomorrow. And ill give u the rest when u come on the 15 <sup>th</sup> for the signing
Landlord:	Okay. But I am not coming there. They have a lawyer office here where I will be dealing with the papers.
Tenant:	Ok well like i said youll be paid out

It is only near the end of the tenancy that the tenant, in text conversations with the landlord, brings up the issue of repairs.

Taking into consideration all of the oral and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving his claim regarding unpaid rent in the amount of \$1,820.00. As such, pursuant to section 67 of the Act, I grant the landlord a monetary award for unpaid rent in the amount of \$1,820.00.

As the landlord is successful in his application, and pursuant to section 72(1) of the Act, I grant the landlord a monetary award for recovery of the filing fee in the amount of \$100.00.

### Conclusion

I hereby grant the landlord a monetary order in the amount of \$1,920.00, which must be served on the tenants. The order may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as a judgment or an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Act.

Dated: September 28, 2018

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Residential Tenancy Branch