



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNRL, FFL

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for:

- an Order of Possession for unpaid rent pursuant to sections 46 and 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenants did not attend this hearing, although I waited until 9:43 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlords attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. Landlord S.D. (the landlord) indicated that she would be the primary speaker during the hearing.

The landlord gave undisputed affirmed testimony that the Application for Dispute Resolution (the Application) was personally served to each tenant on October 23, 2018. In accordance with section 89 of the *Act*, I find that the tenants were duly served with the Application.

At the outset of the hearing the landlord testified that the tenants vacated the rental unit sometime on November 05, 2018. The landlord requested to withdraw their application for an Order of Possession.

The landlord's application for an Order of Possession is withdrawn.

At the outset of the hearing the landlord sought to increase their monetary claim from \$1,000.00 to \$1,266.66 to reflect the tenants' failure to pay \$266.66 for occupying the rental unit until November 05, 2018. Residential Tenancy Rule of Procedure 4.2 states that 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. I allow the amendment as this was clearly rent that the tenants would have known about and resulted since the landlord submitted their Application for Dispute Resolution.

### Issues(s) to be Decided

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

Is the landlord entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

The landlord gave written evidence that this tenancy began on August 01, 2017, with a current monthly rent of \$1,600.00, due on the first day of each month. The landlord testified that they did not obtain a security or pet damage deposit from the tenants.

The landlord gave undisputed affirmed testimony that the tenants have not paid \$1,000.00 rent for October 2018 and \$266.66 for five days of rent owing for November 2018. ( $(\$1,600.00/30 = 53.33) \times 5 = \$266.66$ )

### Analysis

Section 26 of the *Act* requires a tenant to pay rent to the landlord, regardless of whether the landlord complies with the *Act*, regulations or tenancy agreement, unless the tenant has a right to deduct all or a portion of rent under the *Act*.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party.

Based on the undisputed affirmed testimony of the landlord, I find the landlord is entitled to a monetary award of \$1,266.66 against the tenants for unpaid rent owing for this tenancy for October 2018 and November 2018.

As the landlord has been successful in their Application, I allow them to recover the filing fee for this Application from the tenants

Conclusion

I grant a Monetary Order in the landlord's favour against the tenants under the following terms, which allows the landlord to recover unpaid rent and to recover the filing fee for this Application:

Item	Amount
Unpaid October 2018 Rent	\$1,000.00
Unpaid November 2017 Rent	266.66
Filing Fee for this Application	100.00
<b>Total Monetary Order</b>	<b>\$1,366.66</b>

The landlord is provided with these Orders in the above terms and the tenants must be served with this Order as soon as possible. Should the tenants fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: December 14, 2018

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Residential Tenancy Branch