



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL-S, FFL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for unpaid rent, pursuant to section 67;
- authorization to retain the tenants' security and pet damage deposits (collectively "deposits"), pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The two tenants did not attend this hearing, which lasted approximately 18 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the tenants were each served separately with the landlord's application for dispute resolution hearing package on September 1, 2018, in person at the rental unit by the landlord's father. The landlord claimed that his father sent him a text message after the tenants were served. In accordance with section 89 of the *Act*, I find that both tenants were personally served with the landlord's application on September 1, 2018.

### Issues to be Decided

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

Is the landlord entitled to retain the tenants' deposits in partial satisfaction of the monetary order requested?

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

### Background and Evidence

While I have turned my mind to the landlord's documentary evidence and the testimony of the landlord, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the landlord's claims and my findings are set out below.

The landlord testified regarding the following facts. This tenancy began on February 1, 2018 and ended on August 29, 2018. Monthly rent in the amount of \$2,200.00 was payable on the first day of each month. A security deposit of \$1,100.00 and a pet damage deposit of \$1,100.00 were paid by the tenants and the landlord continues to retain both deposits. A written tenancy agreement was signed by both parties but a copy was not provided for this hearing. No move-in or move-out condition inspection reports were completed for this tenancy. No written forwarding address was provided by the tenants to the landlord. The landlord did not have any written permission to keep any part of the tenants' deposits. The landlord filed this application to retain the tenants' deposits on August 30, 2018.

The landlord seeks a monetary order of \$4,600.00 for unpaid rent and recovery of the \$100.00 filing fee. The landlord testified that the tenants failed to pay rent of \$200.00 for June 2018, \$2,200.00 for July 2018 and \$2,200.00 for August 2018. He said that the tenants only made partial payments of \$1,000.00 on June 20, 2018 and \$1,000.00 on July 2, 2018, both by e-transfer, towards June 2018 rent, leaving a balance of \$200.00.

### Analysis

Section 26 of the *Act* requires the tenants to pay monthly rent to the landlord on the date indicated in the tenancy agreement, which in this case, is the first day of each month. Section 7(1) of the *Act* establishes that tenants who do not comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. However, section 7(2) of the *Act* places a responsibility on a landlord claiming compensation for loss resulting from tenants' non-compliance with the *Act* to do whatever is reasonable to minimize that loss.

The landlord provided undisputed evidence that the tenants failed to pay rent totalling \$4,600.00 from June 1 to August 31, 2018. Accordingly, I find that the landlord is entitled to rental arrears of \$4,600.00 from the tenants.

The landlord continues to hold the tenants' deposits totalling \$2,200.00. Over the period of this tenancy, no interest is payable on the deposits. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenants' entire security and pet damage deposits totalling \$2,200.00, in partial satisfaction of the monetary award.

As the landlord was successful in this application, I find that he is entitled to recover the \$100.00 filing fee from the tenants.

### Conclusion

I order the landlord to retain the tenants' entire security and pet damage deposits, totalling \$2,200.00, in partial satisfaction of the monetary award.

I issue a monetary order in the landlord's favour in the amount of \$2,500.00 against the tenant(s). The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and 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: December 27, 2018

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Residential Tenancy Branch