



# 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 was convened as a result of the landlords' Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") for a monetary order for unpaid rent or utilities, to retain the tenant's security deposit, and to recover the cost of the filing fee.

The landlords attended the teleconference hearing and gave affirmed testimony. During the hearing the landlords were given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing ("Notice of Hearing") application and documentary evidence were considered. The landlords testified that the Notice of Hearing and application were served on the tenant personally on September 19, 2018. The landlords testified that the tenant was advised of the contents of the package served upon the tenant and signed the package to confirm service of the package. Based on the above, I accept that the tenant was served with the Notice of Hearing, application and documentary evidence on September 19, 2018 as claimed. Therefore, the hearing continued without the tenant present and as such, I consider this application to be unopposed by the tenant.

### Preliminary and Procedural Matters

At the outset of the hearing, the name of the co-landlord BM was added to the claim as there are two landlords listed on the tenancy agreement. This amendment was made in accordance with section 64(3) of the *Act*.

In addition, the landlords confirmed that they were unable to serve the tenant with their amended application which was to increase their monetary claim. The landlords were advised that while I would not be considering their amendment at this hearing, as the amendment was not served on the respondent as required by the Rules of Procedure, I would grant the landlords leave to reapply for loss of rent and damages which were the portions listed on the amendment.

The landlords confirmed the email address for the parties at the outset of the hearing. The landlords also confirmed their understanding that the decision would be emailed to both parties and that any applicable orders would be emailed to the landlords.

#### Issues to be Decided

- Are the landlords entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenant's security deposit under the *Act*?
- Are the landlords entitled to the recovery of the cost of the filing fee under the *Act*?

#### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on May 1, 2018. The landlords testified that the tenant vacated the rental unit on September 30, 2018. During the tenancy monthly rent was \$1,500.00 per month and was due on the first day of each month. The tenant paid a security deposit of \$750.00, which the landlords continue to hold.

The landlords are claiming a total of \$1,500.00 which is comprised as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Unpaid September 2018 rent	\$1,500.00
<b>TOTAL</b>	<b>\$1,500.00</b>

Regarding item 1, the landlords testified that the tenant failed to pay September 2018 before the tenant vacated the rental unit on September 30, 2018 and owes \$1,500.00 in unpaid rent as a result.

The landlords are also seeking the recovery of the cost of the \$100.00 filing fee under the *Act*.

### Analysis

Based on the undisputed documentary evidence before me and the undisputed testimony of the landlords provided during the hearing, and on the balance of probabilities, I find the following.

As I have accepted that the tenant was served with the Notice of Hearing, application and documentary evidence and did not attend the hearing, I consider this matter to be unopposed by the tenant. As a result, I find the landlords' application is fully successful. I find the evidence supports the landlords' claim and I find the tenant breached section 26 of the *Act* which requires a tenant to pay rent on the date that it is due in accordance with the tenancy agreement. I find the tenant failed to pay rent of \$1,500.00 on September 1, 2018, which resulted in a loss for the landlords. Therefore, I grant the landlords **\$1,500.00** for unpaid September 2018 rent as claimed.

As the landlords' claim had merit, I grant the landlords the recovery of the cost of the filing fee in the amount of **\$100.00** pursuant to section 72 of the *Act*. Based on the above, I find the landlords have established a total monetary claim of **\$1,600.00** as set out above.

As the landlords continue to hold the tenant's \$750.00 security deposit and pursuant to sections 38 and 72 of the *Act*, I authorize the landlords to retain the tenant's full security deposit of \$750.00 which has accrued \$0.00 in interest, in partial satisfaction of the landlords' monetary claim. I grant the landlords a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlords in the amount of **\$850.00**.

**I caution** the tenant to comply with section 26 of the *Act* in the future.

### Conclusion

The landlords' application is fully successful.

The landlords have been authorized to retain the tenant's full security deposit of \$750.00 including \$0.00 in interest, in partial satisfaction of the landlords' monetary claim. The landlords have been granted a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlords in the amount of \$850.00. The

landlords must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

The landlords have liberty to apply for damages and loss of rent as their amendment was not considered in this decision.

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 *Residential Tenancy Act*.

Dated: February 1, 2019

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Residential Tenancy Branch