



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPU, MNRL-S, FFL

### Introduction

I was designated to hear this matter pursuant to section 58 of the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an Order of Possession for unpaid utilities pursuant to section 55;
- a monetary order for unpaid rent and utilities pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The Applicant/landlord did not attend this hearing, although I left the teleconference hearing connection open until 9:41 a.m. in order to enable the landlord to call into this teleconference hearing scheduled for 9:30 a.m. The tenant attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the tenant and I were the only ones who had called into this teleconference.

The tenant testified that they only received notification of this hearing from the landlord by way of a photograph of the call-in instructions for this hearing by text message from the landlord on or about May 8, 2019. The tenant said that they had not received a copy of the landlord's application for dispute resolution from the landlord. Based on this undisputed sworn testimony, the notification of this hearing was not provided to the tenant in accordance with sections 89(1) or(2) of the *Act*.

Rule 10.1 of the Rules of Procedure provides as follows:

**10.1 Commencement of the hearing** The hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

At the hearing, the tenant gave undisputed sworn testimony that they vacated the rental unit on or about May 3 or 4, 2019. They said that they had told the landlord's representative permission that the landlord could keep the \$1,200.00 security deposit and \$200.00 pet damage deposit for this tenancy, paid in November 2018, shortly before this tenancy began. Based on this undisputed sworn testimony from the tenant and with the tenant's permission, I order that the landlord be allowed to retain the tenant's security and pet damage deposits. This gives legal effect to the tenant's oral agreement with the landlord's representative on the issue of these two deposits.

**In the absence of any attendance at this hearing by the Applicant, I order the remainder of the landlord's application dismissed without liberty to reapply.** The landlord is allowed to keep the tenant's security and pet damage deposits.

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 17, 2019

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Residential Tenancy Branch