



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** FFL MNDCL OPRM-DR

### **Introduction**

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

- an Order of Possession for non-payment of rent pursuant to section 55;
- a monetary order for unpaid rent or money owed pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

While the landlord attended the hearing by way of conference call, the tenants did not. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified in the hearing that she had personally served both tenants with her application and evidence package on April 28, 2019. In accordance with sections 88 and 89, I find the tenants duly served with the landlord's application and evidence for this hearing.

The landlord indicated in the hearing that she no longer requires an Order of Possession as the tenants had abandoned the rental unit. Accordingly, the landlord's application for an Order of Possession is cancelled.

Although the landlord had applied for a monetary Order of \$1,640.00 in their initial claim, since they applied another \$1,640.00 in rent has become owing that was not included in their application. RTB Rules of Procedure 4.2 allows for amendments to be made in circumstances where the amendment can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made. On this basis, I have accepted the landlord's request to amend their original application from \$1,640.00 to \$3,280.00 to reflect this additional unpaid rent that became owing by the time this hearing was convened. The landlord had also applied to amend their application to request the cost of registered mailing. As the respondent has the right to review and respond to the amendment, and this additional claim could not be reasonably anticipated by the respondent, this amendment will not be considered as part of this application.

### **Issues(s) to be Decided**

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

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

### **Background and Evidence**

The landlord testified regarding the following facts. This month-to-month tenancy began on March 1, 2019, with monthly rent set at \$1,640.00, payable on the first of the month. The tenants paid the landlord a security deposit in the amount of \$820.00, which the landlord still holds.

The landlord testified that the tenants were served with a 10 Day Notice for Unpaid Rent on May 3, 2019 as the tenants failed to pay rent for May 2019. Since the 10 Day Notice was issued, the tenants had failed to pay any rent for June 2019, and had moved out and abandoned their belongings without any notice to the landlord. The landlord is seeking unpaid rent for the months of May and June 2019, as well as recovery of the filing fee.

### **Analysis**

**Section 26** of the Act, in part, states as follows:

#### **Rules about payment and non-payment of rent**

**26** (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The landlord provided undisputed evidence at this hearing, as the tenants did not attend. I accept the landlord's testimony that the tenants did not pay rent for the months of May and June 2019. On this basis, I allow the landlord to recover the unpaid rent for May and June 2019.

As the landlord was successful with her application, I allow the landlord to recover the filing fee paid for this application.

The landlord continues to hold the tenants' security deposit of \$820.00. In accordance with the offsetting provisions of section 72 of the Act, I order the landlord to retain the tenants' security deposit of \$820.00 in partial satisfaction of the monetary claim.

### **Conclusion**

The landlord cancelled their application for an Order of Possession as the tenants had moved out of the rental suite.

I allow the landlord's monetary claims as set out in the table below. The landlord is issued a monetary order in the amount of \$2,560.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenants' security deposit in satisfaction of the monetary claim.

Unpaid Rent for May and June 2019	\$3,280.00
Filing Fee	100.00
Less Deposit Held by Landlord	-820.00
<b>Total Monetary Order</b>	<b>\$2,560.00</b>

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: July 4, 2019

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Residential Tenancy Branch