



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** FFL MNRL-S

### **Introduction**

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

- a monetary order for unpaid rent, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

Both parties were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The tenant confirmed receipt of the landlord's application for dispute resolution hearing package ("Application") and evidence. In accordance with sections 88 and 89 of the *Act*, I find that the tenant was duly served with the Application and evidence. The tenant did not submit any written evidence for this hearing.

Although the landlord referenced losses associated with this tenancy, the landlord's original application was for \$950.00 in unpaid rent. As no amendments have been filed and served in respect to this application, only the landlord's original claim for unpaid rent and recovery of the filing fee was considered.

### **Issues 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?

### **Background and Evidence**

This month-to-month tenancy began on October 1, 2006 and ended on March 30, 2019 after the tenant was served with a 2 Month Notice to End Tenancy for Landlord's Use on December 9, 2018. The monthly rent was set at \$950.00 at the end of this tenancy. The landlord had collected a security deposit in the amount of \$400.00 at the beginning of the tenancy, which the landlord still holds. Both parties confirmed that February 2019 rent was not collected in satisfaction of the free 1 month's rent the tenant was entitled to as part of the 2 Month Notice.

The landlord is seeking \$950.00 in unpaid rent for the month of March 2019. The tenant does not dispute that he had withheld rent for March 2019 as he felt that the landlord has failed to reimburse him for the work that he had done on the home. The landlord disputes that any agreements were made during this tenancy that had allowed the tenant to withhold rent for work completed on the home.

### **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.*

I find that the tenant was obligated to pay the rent as per the tenancy agreement and the Act. I find the landlord provided undisputed evidence to support that the tenant did not pay any rent for March 2019, nor did the tenant have an order from an Arbitrator allowing him to deduct all or a portion of the rent. I find that the tenant did not provide sufficient evidence to support that any written agreements were made between both parties that allowed the tenant to withhold rent. Accordingly, I allow the landlord's monetary claim for \$950.00 in unpaid rent.

The landlord continues to hold the tenant's security deposit of \$400.00. In accordance with the offsetting provisions of section 72 of the Act, I order the landlord to retain the tenant's security deposit of \$400.00 in partial satisfaction of the monetary claim.

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

**Conclusion**

I issue a \$650.00 Monetary Order in favour of the landlord under the following terms, which allows the landlord to recover unpaid rent, plus the filing fee, and also allows the landlord to retain the tenant's security deposit in partial satisfaction of the landlord's claim.

<b>Item</b>	<b>Amount</b>
Unpaid Rent for March 2019	\$950.00
Recovery of Filing Fee for this Application	100.00
Less Security Deposit Held	-400.00
<b>Total Monetary Order</b>	<b>\$650.00</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: August 26, 2019

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Residential Tenancy Branch