



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes

FFL OPRM-DR

### Introduction

This hearing, reconvened from the Direct Request proceeding, dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a Monetary Order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing. The Notice of Hearing was confirmed to contain the correct hearing information. The landlord was represented by their agent (the "landlord") who was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the Notice of Participatory Hearing, Interim Decision and all evidence were served on the tenant by registered mail sent on June 27, 2019 by registered mail. The landlord provided a valid Canada Post tracking receipt as evidence. In accordance with sections 88, 89 and 90 of the Act, I find that the tenant was deemed served with the landlord's materials on July 2, 2019, five days after mailing.

At the outset of the hearing the landlord said the tenant has vacated the rental unit and withdrew the portion of their application seeking an Order of Possession.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

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

Background and Evidence

This periodic tenancy began in June, 2017. The current monthly rent is \$625.00 payable on the first of each month. A security deposit of \$350.00 was collected at the start of the tenancy and is still held by the landlord.

The landlord explained that the written tenancy agreement was completed in haste and the name of the tenant is unclear on the document. The landlord testified that the named respondent is the tenant for this tenancy.

The landlord testified that the tenant failed to pay rent since February, 2019 and as of the date of the hearing, August 29, 2019, the total arrear for this tenancy is \$3,125.00.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the evidence of the landlord that monthly rent for this tenancy was \$625.00 and find that the tenant was obligated to pay that amount by the first of each month. I accept the evidence that the tenant failed to pay the full rent and that there is an arrear for this tenancy in the amount of \$3,125.00. Accordingly, I issue monetary award in that amount in the landlord's favour as against the tenant.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's \$350.00 security deposit in partial satisfaction of the monetary award issued in the landlord's favour.

### Conclusion

I issue a monetary order in the landlord's favour in the amount of \$2,775.00 which allows the landlord to recover unpaid rent and the filing fee for their application and retain the security deposit.

The tenant must be served with this Order as soon as possible. Should the tenant 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 29, 2019

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Residential Tenancy Branch