



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding KIRK REAL ESTATE SERVICES  
LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR-S, FF

### 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;
- 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;
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package by posting it to the rental unit door on July 22, 2019. I accept the undisputed evidence of the landlord and find that the tenant is deemed served as per section 90 of the Act.

At the conclusion of the hearing, the landlord provided an updated email address for delivery of this decision. As such, the Residential Tenancy Branch File shall be updated to reflect this new email address.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?  
Is the landlord entitled to retain all or part of the security deposit?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord provided direct testimony that this tenancy began on October 1, 2018 on a fixed term tenancy ending on September 30, 2020 as per a signed tenancy agreement. The monthly rent was \$3,500.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$1,750.00 was paid.

The landlord seeks a monetary claim of \$10,500.00 which consists of unpaid rent for the months May 2019, June 2019 and July 2019 at \$3,500.00 per month.

The landlord claims that a previous hearing that took place in which the landlord obtained an order of possession for unpaid rent based upon a 10 Day Notice to End Tenancy for Unpaid Rent dated June 1, 2019. The landlord stated that this 10 Day Notice was served to the tenant by posting it to the rental unit door on June 1, 2019. The 10 Day Notice states in part that the tenant failed to pay rent of \$3,500.00 that was due on May 1, 2019.

The landlord stated that the tenant vacated the rental unit on July 26, 2019 and that no rent was paid since the 10 Day Notice dated June 1, 2019 was served. The landlord seeks a monetary claim for the unpaid rent for 3 months.

### 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.

In this case, I accept the undisputed evidence of the landlord and find that the tenant failed to pay rent for 3 months (May, June and July of 2019) at \$3,500.00 per month for a total of \$10,500.00. The landlord provided undisputed evidence that since the 10 Day Notice dated June 1, 2019 was served the tenant failed to pay any rent until he vacated the rental unit on July 26, 2019. The landlord has been successful in establishing a claim for \$10,500.00 in unpaid rent.

The landlord is also entitled to recovery of the \$100.00 filing fee. I authorize the landlord to retain the \$1,750.00 security deposit in partial satisfaction of the claim.

Conclusion

The landlord is granted a monetary order for \$8,850.00.

This order must be served upon the tenant. Should the tenant fail to comply with this order, the 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: October 29, 2019

---

Residential Tenancy Branch