



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL-S, FFL

### Introduction

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

- a monetary order for unpaid rent, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 12 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the tenant was served with the landlord's application for dispute resolution hearing package on July 18, 2019, by way of registered mail to the rental unit where the tenant was still residing. The landlord provided a Canada Post tracking number verbally during the hearing. The landlord claimed that the mail was delivered and signed for on July 23, 2019. In accordance with sections 89 and 90 of the Act, I find that the tenant was deemed served with the landlord's application on July 23, 2019, five days after its registered mailing.

### Issues to be Decided

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

Is the landlord entitled to retain the tenant's security deposit?

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

### Background and Evidence

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

The landlord testified regarding the following facts. This month-to-month tenancy began on October 1, 2018 and ended on July 30, 2019. Monthly rent in the amount of \$2,100.00 was payable on the first day of each month. A security deposit of \$1,050.00 was paid by the tenant. A written tenancy agreement was signed by both parties and a copy was provided for this hearing. No move-in or move-out condition inspection reports were completed for this tenancy. The tenant did not provide a written forwarding address to the landlord. The landlord did not have written permission to keep any part of the tenant's security deposit. The landlord's application to retain the security deposit was filed on July 13, 2019.

The landlord seeks a monetary order of \$2,100.00 plus the \$100.00 application filing fee. The landlord seeks rent of \$2,100.00 for July 2019. She said that the tenant was living in the rental unit during the month of July 2019 and failed to pay the rent.

### Analysis

Section 26 of the *Act* requires the tenant to pay monthly rent to the landlord on the date indicated in the tenancy agreement, which in this case, is the first day of each month.

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply. However, section 7(2) of the *Act* places a responsibility on a landlord claiming compensation for loss resulting from a tenant's non-compliance with the *Act* to do whatever is reasonable to minimize that loss.

The landlord provided undisputed evidence that the tenant failed to pay rent of \$2,100.00 for July 2019. The tenant was residing in the rental unit during this month. Accordingly, I find that the landlord is entitled to rental arrears of \$2,100.00 from the tenant.

The landlord continues to hold the tenant's security deposit of \$1,050.00. Over the period of this tenancy, no interest is payable on the deposit. In accordance with the offsetting provisions of section 72 of the Act, I order the landlord to retain the tenant's entire security deposit of \$1,050.00, in partial satisfaction of the monetary award.

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

### Conclusion

I issue a monetary order in the landlord's favour in the amount of \$1,150.00 against the tenant. 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: October 25, 2019

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Residential Tenancy Branch