



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

Landlord: OPR MNR FF

Tenant: CNR

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference, on January 2, 2020.

The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the “Act”):

- cancel the 10 Day Notice to End Tenancy for Unpaid rent or utilities (the Notice);

The Landlord applied for the following relief:

- an order of possession based the 10 Day Notice to End Tenancy; and,
- a monetary order for unpaid rent or utilities.

The Landlord attended the hearing and provided testimony. However, the Tenant did not attend. The Landlord was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified that he no longer requires an order of possession since the Tenant moved out at the end of December 2019. I have amended the Landlord’s application to reflect this. The Landlord testified that he served the Tenant with his Notice of Hearing, and evidence by sending to the rental unit by registered mail on November 20, 2019. Pursuant to section 89 and 90 of the Act, I find the Tenant is deemed served with this package 5 days after it was mailed, November 25, 2019.

The Tenant did not appear at this hearing. As such, I dismiss the Tenant’s application in its entirety, without leave to reapply.

The Landlord has requested to amend their application to include rent that has accrued since the original application date. I turn to the following Rules of Procedure (4.2):

**Amending an application at the hearing**

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

In consideration of this, I allow the Landlord to amend their application to include rent that has accrued since the original application date.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to a monetary order for unpaid rent or utilities?

Background and Evidence

The Landlord testified that rent in the amount of \$1,400.00 is due on the first of each month. The Landlord stated that he currently holds a security deposit in the amount of \$700.00.

The Landlord stated that the Tenant only paid \$700.00 in October 2019, and still owes \$700.00 in rent for that month. Further, the Landlord stated that the Tenant failed to pay any rent for November or December 2019. The Landlord stated that the Tenant moved out on December 27, 2019, and she now owes \$3,500.00, as laid out above.

Analysis

Based on the unchallenged testimony and documentary evidence, and on a balance of probabilities, I find as follows:

Section 26 of the *Act* confirms that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of rent.

I find there is insufficient evidence the Tenant had any right under the *Act* to withhold rent. With respect to the Landlord's request for a Monetary Order for unpaid rent, I find there is sufficient evidence from the Landlord's documentary evidence and testimony before me to demonstrate that the Tenant owes and has failed to pay \$3,500.00 in rent for October - December of 2019.

As the Landlord's application was successful, and pursuant to section 72 of the *Act* I grant the Landlord the recovery of the cost of the filing fee in the amount of **\$100.00**. Further, **I authorize** the Landlord to retain the Tenant's security deposit in the amount of \$700.00 in full, to offset the rent he is owed.

In summary, I find the Landlord is entitled to a monetary order as follows:

<b>Claim</b>	<b>Amount</b>
Cumulative unpaid rent	\$3,500.00
Other:	
Filing fee	\$100.00
<b>Less:</b>	
Security Deposit currently held	(\$700.00)
<b>TOTAL:</b>	<b>\$2,900.00</b>

### Conclusion

The Landlord is granted a monetary order pursuant to Section 67 in the amount of **\$2,900.00**. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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: January 02, 2020

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Residential Tenancy Branch