



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL, FFL

### Introduction

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

- a Monetary Order for unpaid rent, pursuant to sections 67; and
- authorization to recover the filing fee from the tenants, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:42 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. The landlords attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlords and I were the only ones who had called into this teleconference.

The landlords testified that they served the tenant with their application for dispute resolution via registered mail on October 24, 2019 and that the package was delivered to the tenant on October 28, 2019. The landlords provided the Canada Post tracking number in the hearing to confirm this registered mailing. The tracking number is located on the cover page of this decision. The Canada Post tracking website confirms the landlords' testimony. I find that service of the landlords' application for dispute resolution was effected on the tenant on October 28, 2019 in accordance with section 89 of the *Act*.

### Issues to be Decided

1. Are the landlords entitled to a Monetary Order for unpaid rent, pursuant to section 67 of the *Act*?

2. Are the landlords entitled to recover the filing fee from the tenants, pursuant to section 72 of the *Act*?

### Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the landlords, not all details of their submissions and arguments are reproduced here. The relevant and important aspects of the landlords' claims and my findings are set out below.

The landlords provided the following undisputed testimony. The tenant and his girlfriend signed a fixed term tenancy agreement set to begin on October 1, 2019, expiring on April 1, 2020. In a text message dated September 29, 2019 the tenant informed the landlords that he and his girlfriend broke up. The landlords asked the tenant if he was still moving into the subject rental property and he responded that moving in was his goal. In a text message dated October 1, 2019 the tenant informed the landlords that he would not be moving in. The above text messages were entered into evidence.

The landlords testified that they listed the subject rental property for rent on October 2, 2019 at a rental rate of \$1,600.00 per month and were able to get new tenants starting November 1, 2019.

The landlords testified that they informed the tenant and his girlfriend that if they each paid them \$400.00 they would release the tenant and his girlfriend from the lease and would not seek further damages for loss of rent from them. The tenant's girlfriend paid the landlords \$400.00 but the tenant did not. The landlords released the tenant's girlfriend from the lease and are not seeking further damages from her.

The landlords testified that they are seeking \$1,200.00 in unpaid rent for the month of October 2019 from the tenant pursuant to the following calculation:

$$\text{\$1,600.00 (rent) - \$400.00 (received from the tenant's girlfriend) = \$1,200.00.}$$

### Analysis

Under section 7 of the *Act* a landlord or tenant who does not comply with the *Act*, the regulations or their tenancy agreement must compensate the affected party for the resulting damage or loss; and the party who claims compensation must do whatever is reasonable to minimize the damage or loss.

Pursuant to Policy Guideline 16, damage or loss is not limited to physical property only, but also includes less tangible impacts such as loss of rental income that was to be received under a tenancy agreement.

In this case, the tenant ended a fixed term tenancy early; thereby decreasing the rental income that the landlords were to receive under the tenancy agreement. Pursuant to section 7, the tenant is required to compensate the landlords for that loss of rental income. The landlords testified that the subject rental property was advertised for rent the day after the tenant informed them that he would not be moving into the subject rental property. Subsequently, the unit was rented out for November 1, 2019. I find that the landlords mitigated their damages by promptly advertising the subject rental property for rent. The tenant, pursuant to section 7 and Policy Guideline 16, is therefore liable for the outstanding amount of unpaid rent for October 2019, that being \$1,200.00.

As the landlords were successful in their application, I find that they are entitled to recover the \$100.00 filing fee from the tenant, pursuant to section 72 of the *Act*.

### Conclusion

I issue a Monetary Order to the landlords in the amount of \$1,300.00.

The landlords are provided with this Order in the above terms and 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: March 12, 2020

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Residential Tenancy Branch