



# 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 was convened as a result of the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) for a monetary order for unpaid rent or utilities, for authorization to retain all or part of the tenant's security deposit, and to recover the cost of the filing fee.

The landlord attended the teleconference hearing and gave affirmed testimony. During the hearing the landlord was given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated November 28, 2019 (Notice of Hearing), application and documentary evidence were considered. The landlord testified that the Notice of Hearing, application and documentary evidence were served on the tenant by registered mail on November 28, 2019. A registered mail tracking number receipt was submitted in evidence and the tracking number has been referenced on the style of cause for ease of reference and has been identified as 1. According to the online registered mail tracking website the registered mail package was signed for and accepted on November 29, 2019. Based on the undisputed evidence before me, I find the tenant was sufficiently served under the Act as of November 29, 2019, which is the date the registered mail package was signed for and accepted. Given the above, I find this application to be unopposed by the tenant as the tenant was duly served and did not attend the hearing.

### Preliminary and Procedural Matter

The landlord confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them.

The decision will be emailed to the tenant at the email address provided by the tenant in their application.

### Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- What should happen to the tenant's security deposit under the Act?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on March 1, 2019 and was not scheduled to revert to a month to month tenancy until February 29, 2020. The tenant's monthly rent was \$2,300.00. The tenant paid a security deposit of \$1,150.00 at the start of the tenancy, which the landlord continues to hold.

The landlord is seeking unpaid rent of \$2,300.00 for October 2019, and loss of rent for November 2019 in the amount of \$2,300.00, plus the filing fee. The landlord has summarized their claim by offsetting the security deposit of \$1,150.00 from the rent owed, leaving a net monetary claim of \$3,550.00.

The landlord testified that a 10 Day Notice dated October 17, 2019 was served on the tenant by registered mail on October 18, 2019. A second registered mail tracking number was provided during the hearing and has been included on the style of cause for ease of reference and identified as 2. According to the online registered mail tracking website, the tenant signed for and accepted the registered mail package on October 23, 2019. The landlord stated that the tenant failed to pay the \$2,300.00 owing for October 2019 rent due on October 1, 2019, and that the tenant did not file an application to dispute the 10 Day Notice.

The landlord testified that the tenant did not vacate and return all keys until November 10, 2019 and as a result, the landlord is seeking loss of rent for November 2019. The landlord is also seeking the filing fee.

### Analysis

Based on the undisputed documentary evidence and the undisputed testimony of the landlord provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant was served with the Notice of Hearing, application and documentary evidence and did not attend the hearing, and as noted above, I consider this matter to be unopposed by the tenant. As a result, I find the landlord's application is fully successful in the amount of **\$4,700.00**, which includes the recovery of the cost of the filing fee pursuant to section 72 of the Act in the amount of \$100.00 as the landlord's application is successful. I have considered the undisputed testimony of the landlord and that the application was unopposed by the tenant. The landlord continues to hold the tenant's security deposit of \$1,150.00, which has not accrued any interest to date.

I find the tenant breached section 26 of the Act by failing to pay \$2,300.00 for October 2019 rent due on October 1, 2019. I find that by failing to vacate the rental unit and return all keys by November 10, 2019, that the tenant is liable for the loss of rent for November 2019 in full as claimed.

Therefore, I authorize the landlord to retain the tenant's full security deposit of \$1,150.00 in partial satisfaction of the landlord's monetary claim. I grant the landlord a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord in the balance owing of **\$3,550.00**.

### Conclusion

The landlord's application is fully successful.

The landlord has been authorized to retain the tenant's full security deposit of \$1,150.00 in partial satisfaction of the landlord's monetary claim. The landlord has been granted a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord in the amount of \$3,550.00. The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

This decision will be emailed to both parties.

The monetary order will be emailed to the landlord only for service on the tenant.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 17, 2020

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Residential Tenancy Branch