



# 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 an Application for Dispute Resolution (the “Application”) filed by the Landlord under the *Residential Tenancy Act* (the “Act”), seeking:

- A Monetary Order for unpaid rent;
- Authorization to withhold the Tenant’s security deposit towards unpaid rent; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by two agents for the Landlord the (“Agents”), both of whom provided affirmed testimony. The Tenant did not attend. The Agents provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the respondent must be served with a copy of the Application and Notice of Hearing. As the Tenant did not attend the hearing, I confirmed service of documents as explained below.

The Agent L.D. provided affirmed testimony that the Notice of Dispute Resolution Proceeding Package, including a copy of the Application, the Notice of Hearing, and the Landlord’s documentary evidence, was posted to the door of the Tenant’s rental unit by them, in the presence of a witness, on June 15, 2020, at 10:15 A.M. As a result, I find that the Tenant was deemed served with the above noted documents on June 8, 2020, pursuant to section 90 (c) of the *Act*.

I have reviewed all evidence and testimony before me that met the requirements of the Rules of Procedure. However, I refer only to the relevant facts, evidence and issues in this decision.

Issue(s) to be Decided

Is the Landlord entitled to monetary compensation for unpaid rent pursuant to sections 26 and 67 of the *Act*?

Is the Landlord entitled to recovery the filing fee and to retain the Tenant's security deposit towards money owed pursuant to section 72 of the *Act*?

Background and Evidence

The Agent submitted a copy of tenancy agreement which states that the tenancy began on January 1, 2008, that a security deposit of \$390.00 was paid, and that rent in the amount of \$790.00 was due on the first day of the month. The Agents stated that rent is now \$975.00 per month and acknowledged that the Landlord still holds the security deposit.

The Agents stated that the Landlord previously received a decision and Order of Possession for the rental unit from the Residential Tenancy Branch (the "Branch") due to late payment of rent and submitted a copy of that decision and Order of Possession for my review. The Agents stated that the Tenant has not vacated the rental unit as required by the Order of Possession and currently owes \$3,427.21 in outstanding rent. The Agents submitted a rent ledger in support of this testimony. The Agents also sought recovery of the \$100.00 filing fee.

Neither the Tenant nor an agent acting on their behalf attended the hearing to provide any evidence or testimony for my consideration.

Analysis

Section 26 (1) of the *Act* states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the *Act*, the regulations or the tenancy agreement, unless the tenant has a right under the *Act* to deduct all or a portion of the rent.

As there is no evidence before me that the Tenant was entitled to deduct or withhold rent under the *Act*, I therefore find that the Tenant was obligated to pay the monthly rent, on time and in full, in accordance with their tenancy agreement and I accept the Agents' affirmed and undisputed testimony that rent in the amount of \$975.00 is currently due on the first day of each month. I am also satisfied based on the

documentary evidence before me and the uncontested and affirmed testimony of the Agents that the Tenant currently owes \$3,427.21 in outstanding rent. As a result, I award the Landlord recovery of this amount.

Pursuant to section 72 of the *Act*, the Landlord is also entitled to recovery of the \$100.00 filing fee and to withhold the Tenant's \$390.00 security deposit towards the amounts owed. Pursuant to section 67 of the *Act*, the Landlord is therefore entitled to a Monetary Order in the amount of \$3,137.21; \$3,427.21 in outstanding rent, plus the \$100.00 filing fee, less the \$390.00 security deposit retained. I order that the Tenant therefore pay this amount to the Landlord.

### Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$3,137.21. The Landlord is 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: June 30, 2020

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Residential Tenancy Branch