



# 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 Landlords' Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for a monetary order for unpaid rent, retaining the security deposit to apply to this claim; and to recover the \$100.00 cost of their Application filing fee.

The Landlord, P.H., appeared at the teleconference hearing and gave affirmed testimony, but no one attended on behalf of the Tenants. The teleconference phone line remained open for over 30 minutes and was monitored throughout this time. The only person to call into the hearing was the Landlord, who indicated that she was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Landlord.

I explained the hearing process the Landlord and gave her an opportunity to ask questions about the hearing process. During the hearing the Landlord was given the opportunity to provide her evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure "(Rules)"; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Tenants did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing and documentary evidence. Section 59 of the Act states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified that she served the Tenants with the Notice of Hearing documents by email on June 6, 2020, and by Canada Post registered mail, sent on June 11, 2020. The Landlord provided a Canada Post tracking number as evidence of service. I find that the Tenants were deemed served with the Notice of Hearing documents in accordance with the Act. I, therefore, admitted the Application and evidentiary documents, and I continued to hear from the Landlord in the absence of the Tenants.

Preliminary and Procedural Matters

The Landlord provided the Parties' email addresses at the outset of the hearing, and confirmed her understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

Issue(s) to be Decided

- Are the Landlords entitled to a monetary order, and if so, in what amount?
- Are the Landlords entitled to recovery of the Application filing fee?

Background and Evidence

The Landlord submitted a tenancy agreement and, in the hearing, confirmed the details of the agreement, as follows: the fixed term tenancy began on September 20, 2019 and runs to September 21, 2020, with a monthly rent of \$2,500.00, due on the 21<sup>st</sup> day of each month. The Landlord confirmed that the Tenants paid the Landlords a security deposit of \$1,250.00, and no pet damage deposit.

The Landlord submitted a monetary order worksheet with the following details about the Tenants' payment and non-payment of rent in the last six months. She also testified that about the sixth payment noted below.

	<b>Rental Period</b>	<b>Amount Rent Paid</b>	<b>Amount Owe</b>
1	Jan 21/20 – Feb 20	Paid nothing	\$2,500.00
2	Feb 21 – March 20	Paid nothing	\$2,500.00
3	March 21 – April 20	Paid \$900.00	\$1,600.00
4	April 21 – May 20	Paid \$200.00	\$2,300.00
5	May 21 – June 20	Paid \$500.00	\$2,000.00
6	June 21 – July 20	Paid \$1,850.00	\$650.00
7		Recover Application filing fee	\$100.00
		<b>Total monetary order claim</b>	<b>\$11,650.00</b>

### Analysis

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

Section 26 of the Act states: “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 this Act to deduct all or a portion of the rent.” There is no evidence before me that the Tenants had a right to deduct any portion of the rent from the monthly rent due to the Landlord.

Pursuant to section 26 of the Act, I award the Landlord recovery of \$11,550.00 in unpaid rent and \$100.00 for the Application filing fee pursuant to section 72 of the Act.

I find that this claim meets the criteria under section 72(2)(b) of the Act to be offset against the Tenant’s security deposit of \$1,250.00 in partial satisfaction of the Landlord’s monetary claim. I, therefore, authorize the Landlord to retain the Tenants’ security deposit to somewhat offset the monetary award.

Accordingly, I award the Landlords with a monetary order of **\$10,400.00**, for the remainder owing after set-off, pursuant to section 67 of the Act.

### Conclusion

The Landlords’ undisputed claim for recovery of unpaid rent is successful with an award of \$11,550.00. The Landlords are also awarded recovery of the \$100.00 Application filing fee from the Tenants.

The Landlords are authorized to retain the Tenants’ \$1,250.00 security deposit in partial satisfaction of the monetary award. The Landlords are granted a monetary order for the remainder owing in the amount of **\$10,400.00**.

I grant the Landlords a Monetary Order under section 67 of the Act from the Tenants in the amount of **\$10,400.00**. This Order must be served on the Tenants by the Landlords and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

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: June 25, 2020

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Residential Tenancy Branch