



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNDL-S, MNRL-S

### Introduction

This hearing dealt with the adjourned Application for Dispute Resolution filed by the Landlords on May 4, 2020, under the Residential Tenancy Act (the “Act”). The Landlords applied for a monetary order for unpaid rent, monetary order for compensation for damage caused by the tenant, their pets or guests to the unit, site or property, permission to retain the security deposit and to recover the filing fee paid for the application. The matter was set for a conference call.

Two parties for the Landlord attended the hearing and were each affirmed to be truthful in their testimony. As the Tenant did not attend this hearing, service of the Notice of Dispute Resolution Hearing for this proceeding was considered. As this hearing was scheduled as a result of a previously adjournment hearing, and that it was the Residential Tenancy Branch that served the new Notice of Dispute Resolution Hearing Document to the Tenants, I find that the Tenants had been duly served in accordance with the *Act*.

The Landlord was provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

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.

### Preliminary Matters- Related Issues

I have reviewed the Landlords’ application, and I note that they have applied to enforce a notice to end tenancy as well as for several other issues. I find that one of these other

issues are not related to the Landlords' request to enforce the Notice. As one of these matters do not relate directly to a possible end of the tenancy, I apply section 2.3 of the Residential Tenancy Branches Rules of Procedure, which states:

**2.3 Related issues**

Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

Therefore, I am dismissing with leave to reapply, the Landlords' claims to request a monetary order for compensation for damage caused by the Tenant.

I will proceed with this hearing on the Landlords' claims to enforce the 10-Day Notice to end tenancy, for a monetary order for unpaid rent, and for permission to retain the security and pet damage deposits.

Preliminary Matters- Issue Withdrawn

At the outset of this hearing, the Landlords testified that the Tenants had moved out of the rental unit as of June 5, 2020, and that they no longer require an order of possession.

I find that the application for an order of possession has been withdrawn.

I will proceed with this hearing on the Landlords' claims for a monetary order for unpaid rent, and for permission to retain the security and pet damage deposits.

Issues to be Decided

- Is the Landlord entitled to a monetary order for rent?
- Is the Landlord entitled to retain the security deposit and pet damage deposit?
- Is the Landlord entitled to the return for their filing fee for this application?

Background and Evidence

The tenancy agreement shows that the tenancy began on September 1, 2019, as a one-year fixed term tenancy. The Landlords testified that rent for this tenancy had initially been \$2,400.00 per month but that they had lowered it to \$2,200.00 in February

2020, and that rent was to be paid by the first day of each month. The Landlords testified that they are holding a \$1,200.00 security deposit and a \$250.00 pet damage deposit (the “deposits”) for this tenancy.

The Landlords testified that the Tenants are behind in the rent in the amount of \$4,766.00, consisting of \$300.00 for March 2020, \$2,200.00 for April 2020, \$2,200.00 for May 2020 and \$66.00 for June 2020. The Landlord is requesting a monetary order for the outstanding rent and permission to use the deposits towards the outstanding rent.

### Analysis

Based on the evidence before me, the testimony of these parties, and on a balance of probabilities that:

Section 26(1) of the *Act* states that a tenant must pay the rent when it is due under the tenancy agreement.

#### ***Rules about payment and non-payment of rent***

**26 (1)** *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this 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.*

*(2) A landlord must provide a tenant with a receipt for rent paid in cash.*

*(3) Whether or not a tenant pays rent in accordance with the tenancy agreement, a landlord must not*

*(a) seize any personal property of the tenant, or*

*(b) prevent or interfere with the tenant's access to the tenant's personal property.*

*(4) Subsection (3) (a) does not apply if*

*(a) the landlord has a court order authorizing the action, or*

*(b) the tenant has abandoned the rental unit and the landlord complies with the regulations.*

In this case, I accept the testimony of the Landlords that the full rent has not been paid for March, April, May and June 2020. I find that the Tenants breached section 26 of the *Act* when they did not pay the rent as required under the tenancy agreement.

Therefore, I find that the Landlords have established an entitlement to a monetary award in the amount of \$4,766.00, comprised of \$300.00 in rent for March 2020, \$2,200.00 in rent for April 2020, \$2,200.00 in rent for May 2020, and \$66.00 in rent for June 2020. I grant permission to the Landlords to retain the deposits for this tenancy in partial satisfaction of this award.

I grant the Landlords a monetary order in the amount of \$3,316.00, consisting of \$4,766.00 in rent, less the security of \$1,200.00 and pet damage deposit of \$250.00 that the Landlords are holding for this tenancy.

### Conclusion

I find for the Landlords under sections 26, 38, 65 and 72 of the Act. I grant the Landlords a **Monetary Order** in the amount of **\$3,316.00**. The Landlords are provided with this Order in the above terms, and the Tenants must be served with this Order as soon as possible. Should the Tenants 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 19, 2020

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Residential Tenancy Branch