



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SOUTH ISLAND PROPERTY MANAGEMENT LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNRL-S, MNDL-S, FFL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act"), for:

- a monetary order for unpaid rent and for damage to the rental unit, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 19 minutes. The landlord's agent ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she was the property manager for the landlord company named in this application and that she had permission to speak on its behalf.

The landlord testified that she personally served the tenant with the landlord's application for dispute resolution hearing package on March 14, 2020. The landlord provided a signed, witnessed proof of service with this application. In accordance with section 89 of the *Act*, I find that the tenant was personally served with the landlord's application on March 14, 2020.

At the outset of the hearing, the landlord confirmed that she was not pursuing a monetary order for damages against the tenant, only for the unpaid rent. Accordingly, this portion of the landlord's application is dismissed without leave to reapply.

### Issues to be Decided

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee paid for this application?

### Background and Evidence

The landlord testified regarding the following facts. This tenancy began on July 24, 2019 and ended on February 24, 2020. Monthly rent in the amount of \$1,300.00 was payable on the first day of each month. A security deposit of \$650.00 was paid by the tenant and the landlord continues to retain this deposit. A written tenancy agreement was signed by both parties and a copy was provided for this hearing.

The landlord seeks a monetary order of \$3,625.75 for unpaid rent, to offset the security deposit of \$650.00 against this rent, and to recover the \$100.00 filing fee paid for this application. The landlord claimed that the tenant failed to pay rent of \$1,300.00 for each of December 2019 and January 2020. She stated that the tenant also failed to pay rent that the landlord prorated to \$1,025.75 for February 2020 based on the following calculation ( $\$1,300.00 \times 12 \text{ months} / 365 \text{ days} \times 24 \text{ days in February 2020}$ ). She claimed that the total outstanding rent from December 2019 to February 2020 was \$3,625.75.

### Analysis

As per section 26 of the *Act*, the tenant is required to pay rent on the date indicated in the tenancy agreement, which is the first day of each month. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

The landlord provided undisputed evidence that the tenant failed to pay rent totalling \$3,625.75 from December 2019 to February 2020. Therefore, I find that the landlord is entitled to \$3,625.75 in rental arrears from the tenant.

The landlord continues to hold the tenant's security deposit of \$650.00. No interest is payable on the deposit during this tenancy. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's security deposit of \$650.00 in partial satisfaction of the monetary award.

As the landlord was mainly successful in this application, I find that it is entitled to recover the \$100.00 application filing fee from the tenant.

Conclusion

The landlord's application for a monetary order for damage to the rental unit is dismissed without leave to reapply.

I order the landlord to retain the tenant's security deposit of \$650.00 in partial satisfaction of the monetary award.

I issue a monetary order in the landlord's favour in the amount of \$3,075.75 against the tenant. 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: July 13, 2020

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Residential Tenancy Branch