



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL-S, MNDCL-S, FFL

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Landlord under the *Residential Tenancy Act* (the “Act”), seeking:

- Unpaid rent;
- Compensation for monetary loss or other money owed;
- Recovery of the filing fee; and
- Authorization to withhold the security deposit against money owed.

The hearing was convened by telephone conference call and was attended by the Landlord, who provided affirmed testimony. Neither the Tenant nor an agent for the Tenant attended. The Landlord was 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 neither the Tenant nor an agent for the Tenant attended the hearing, I confirmed service of these documents as explained below.

The Landlord testified that the Notice of Dispute Resolution Proceeding Package, including a copy of the Application, the Notice of Hearing, and the documentary evidence before me from the Landlord, was sent to the Tenant by registered mail on March 26, 2020, at the PO BOX address given to the Landlord by the Tenant at the start of the tenancy. The Landlord provided me with a copy of the registered mail tracking information, which shows that the registered mail was sent as described above and delivered on March 30, 2020. The Landlord stated that although the PO BOX address was given at the start of the tenancy in October of 2019, they spoke with the Tenant in

March of 2020 and confirmed that this address was still in use by the Tenant before sending the Notice of Dispute Resolution Proceeding Package to this address.

Based on the registered mail tracking information and the Landlord's affirmed and undisputed testimony, I am satisfied that the address used for the registered mail was a valid address for service for the Tenant at the time the registered mail was sent and that the registered mail was placed in their PO BOX on March 30, 2020. As a result, I find that the Tenant was deemed served with the registered mail on April 2, 2020, three days after it was placed in their mailbox, in accordance with section 90 (d) the Act and the Rules of Procedure.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure; however, I refer only to the relevant facts, evidence, and issues in this decision.

At the request of the Landlord, copies of the decision and any orders issued in their favor will be emailed to them at the email address provided in the Application.

#### Issue(s) to be Decided

- Is the Landlord entitled to recovery of unpaid rent?
- Is the Landlord entitled to compensation for monetary loss or other money owed?
- Is the Landlord entitled to recovery of the filing fee?
- Is the Landlord authorized to withhold the security deposit against money owed?

#### Background and Evidence

The tenancy agreement in the documentary evidence before me, signed on October 31, 2019, states that the fixed term tenancy began on November 1, 2019, and was set to end on May 1, 2020. The tenancy agreement states that rent in the amount of \$2,600.00 is due on the first day of each month, internet is charged at \$45.00 per month, the Tenant owes 65% of each hydro bill, all other utilities are the responsibility of the Tenant and that a \$1,300.00 security deposit was paid. In the hearing the Landlord confirmed that these are the correct terms of the tenancy agreement, except that only 65% of the gas bill was to be paid by the Tenant, not the full amount as set out in the tenancy agreement. The Landlord also confirmed that they still hold the \$1,300.00 security deposit.

The Landlord stated that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice") was personally served on the Tenant on January 30, 2020, and that the Tenant vacated the rental unit on either March 7<sup>th</sup> or March 8<sup>th</sup>, 2020.

The Landlord stated that the Tenant currently owes \$4,356.67 in outstanding rent for January, February, and March 2020, and \$842.58 in outstanding utilities. In support of this testimony the Landlord submitted a copy of the tenancy agreement, email transfer receipts for the payment of partial January 2020 rent, a Monetary Order Worksheet, and copies of utility bills.

The Landlord also sought authorization to withhold the Tenants \$1,300.00 security deposit for unpaid rent and utilities as well as recovery of the \$100.00 filing fee.

No one appeared on behalf of the Tenant to provide any evidence of 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.

I accept the Landlord's documentary evidence and affirmed and undisputed testimony and find that the Tenant was obligated to pay \$2,600.00 in rent on time and in full each month, in addition to \$45.00 per month for internet and 65% of electricity and gas bills. As there is no evidence that the Tenant was entitled to withhold or deduct any amount of rent or utilities under the *Act*, I therefore find that the Tenant owes the \$5,199.25 sought by the Landlord for outstanding rent and utilities.

As the Landlord was successful in their Application, I also grant them recovery of the \$100.00 filing fee pursuant to section 72 (1) of the *Act*. Pursuant to section 72 (2) (b) of the *Act*, I also authorize the Landlord to withhold the Tenant's \$1,300.00 security deposit in partial repayment of the above owed amounts.

Based on the above and pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$3,999.25; \$5,299.25 for unpaid rent and utilities as well as recovery of the filing fee, less the \$1,300.00 security deposit retained.

Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of **\$3,999.25**. 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: July 27, 2020

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Residential Tenancy Branch