



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS  
LTD and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNRL-S, FFL

### Introduction

On May 12, 2020, the Landlords made an Application for Dispute Resolution seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “Act”), seeking to apply the security deposit towards these debts pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing; however, the Tenant did not appear during the 23-minute teleconference hearing. All parties in attendance provided a solemn affirmation.

The Landlord advised that she served the Notice of Hearing and evidence package to the Tenant by registered mail and email on May 12, 2020 and she stated that the Tenant confirmed that he received this email. Based on this undisputed testimony, I am satisfied that the Tenant has been served the Notice of Hearing and evidence package. As such, I have accepted this evidence and will consider it when rendering this Decision.

All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order for compensation?
- Is the Landlord entitled to apply the security deposit towards these debts?

- Is the Landlord entitled to recover the filing fee?

### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord advised that the tenancy started on February 15, 2020, that rent was established at \$1,540.00 per month, and that it was due on the first day of each month. A security deposit of \$770.00 was also paid. A copy of the signed tenancy agreement was submitted into evidence.

She stated that she was seeking compensation in the amount of **\$4,670.00**, which was comprised of \$1,540.00 for April 2020 rental arrears, \$1,540.00 for June 2020 rental arrears, \$25.00 for a June 2020 late rent fee, \$1,540.00 for September 2020 rental arrears, and \$25.00 for a September 2020 late rent fee. She provided a copy of a rent ledger to support her position that the Tenant was still in arrears this amount. She advised that this tenancy is still ongoing; however, a 10 Day Notice to End Tenancy for Unpaid Rent has been served to the Tenant for September 2020 rental arrears.

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Given the circumstances of the global pandemic, I find it important to reference Policy Guideline # 52 to address this specific Application. In this Policy Guideline, affected rent means “rent that becomes due to be paid by a tenant in accordance with a tenancy agreement during the ‘specified period’ between March 18, 2020 and August 17, 2020.”

Furthermore, section E in this Policy Guideline states the following:

**APPLICATIONS FOR MONETARY ORDERS FOR UNPAID AFFECTED RENT MADE BEFORE JULY 31, 2020**

If a valid repayment plan has been given to a tenant and the tenant is in good standing because:

- the first payment has not come due, or
- the tenant is paying the installments as required,

an arbitrator may grant a monetary order but it will be subject to the terms of the repayment plan. The order will set out that the tenant must pay the unpaid affected rent in accordance with the repayment plan.

If a landlord and tenant have entered into a valid prior agreement and the tenant is in good standing, as set out above, then unless there are exceptional circumstances, an arbitrator will not grant a monetary order subject to the terms of the prior agreement. This is because the prior agreement can unilaterally be cancelled at any time by either party.

If a tenancy has ended prior to a repayment plan being given, or ends after a repayment plan has been given or there is a prior agreement and the tenant has failed to pay an installment, the arbitrator may grant a monetary order that the unpaid affected rent be paid in full as of the date of the order.

Where a landlord is required to give a repayment plan but no valid repayment plan has been given and no valid prior agreement exists, the arbitrator may assist the parties in completing a repayment plan that meets the requirements of the C19 Tenancy Regulation **or dismiss the application with leave to reapply.**

With respect to the Landlord's claims for rental loss, as this Application was made prior to July 31, 2020 for unpaid affected rent, and as there was no valid repayment plan that was given to the Tenant, this Application has been dismissed with leave to reapply.

Moreover, the Landlord's request for September 2020 rent on this Application is premature based on the information provided during the hearing on when the 10 Day Notice to End Tenancy for Unpaid Rent was served. The Landlord was advised that should she make an Application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent based on the September 2020 notice, she may also request compensation for the above rental arrears as well.

As the Landlord was not successful in her claims, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid for this Application.

Conclusion

The Landlord's Application is dismissed with leave to reapply.

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: September 11, 2020

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Residential Tenancy Branch