



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **OPC, MNRL-S, MNDCL-S, FFL**

### Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- An Order of Possession under a One Month Notice pursuant to section 55;
- A Monetary Order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

JH, the agent for the landlord, attended the hearing ("the landlord") and had the opportunity to call witnesses and present affirmed testimony and written evidence.

The tenants did not attend the hearing. The hearing process was explained, and the landlord was given an opportunity to ask questions about the process.

I kept the teleconference line open from the scheduled time for the hearing for an additional 15 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

### *Service*

As the tenants did not attend the hearing, I asked the landlord to confirm that the tenants were served with the Notice of Hearing and Application for Dispute Resolution for this hearing.

The landlord's agent testified she sent the documents by individual registered mail to the tenants on August 14, 2020 mailed to each tenant's residence, thereby effecting service under section 90 on August 19, 2020. The landlord provided the tracking numbers for the mailing referenced on the front page and submitted copies of the receipts.

Section 15 of *Residential Tenancy Policy Guideline #12. Service Provisions* explains the requirement for proof of service, as follows, in part:

Where proof of service is required, the person who actually served the documents must either:

- be available as a witness in the hearing to prove service, or
- provide a signed statement with the details of how the documents were served.

As the landlord's agent testified to the date and time of service, the method of service, location of service, and the specifics of the documents served, I find that the landlord has proven service of the Notice of Hearing and Application for Dispute Resolution on the tenant.

As such, I find that the tenants were served with the Notice of Hearing and Application for Dispute Resolution in accordance with sections 88 and 89 of the *Act*.

### *Order of Possession*

The landlord stated the tenants vacated the unit on or before August 14, 2020 and withdrew the application for an Order of Possession.

I refer to the tenants in the singular.

### Issue(s) to be Decided

Is the landlord entitled to:

- A Monetary Order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation ("Regulation")* or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*;

- Authorization to recover the filing fee for this application pursuant to section 72.

### Background and Evidence

The landlord provided the following uncontradicted testimony.

The tenancy began on December 1, 2018 for monthly rent of \$1,600.00 payable on the first of the month. The tenant provided a security deposit of \$800.00 which the landlord holds. The landlord submitted a copy of the signed tenancy agreement. The tenant has not provided any written authorization to the landlord to retain the deposit.

The landlord conducted a condition inspection on moving in. The landlord testified the landlord served the tenant with a Notice to Conduct Inspection on moving out scheduled for August 14, 2020. When the landlord attended at the appointed time, the landlord learned the tenant had vacated the unit. The landlord observed damage for which the landlord seeks authorization to apply later for a monetary award.

The landlord submitted a copy of a tenant ledger which indicated that the tenant owed \$8,000.00 to the landlord for outstanding rent. The landlord testified the tenant owed the landlord for the following expenses reflected in the ledger: replacement of keys (\$100.80), locksmith charges (\$240.45) and strata fees for improper fuel storage (\$322.90). The landlord submitted receipts for all expenses claimed.

The landlord submitted the following in support of the claim for outstanding rent and expenses:

- a monetary worksheet
- a ledger listing all payments made by the tenants.

The landlord requested a Monetary Order for outstanding rent and above expenses which total \$8,664.15, reimbursement of the filing fee of \$100.00 and authorization to apply the security deposit to the monetary award for a total award requested of \$800.00.

A summary of the landlord's claim follows:

ITEM	AMOUNT
Outstanding rent and expenses listed above	\$8,664.15

Reimbursement of filing fee	\$100.00
(Less deposit)	(\$800.00)
<b>Monetary Order Requested</b>	<b>\$7,964.15</b>

### Analysis

I have reviewed all documentary evidence and testimony.

Based on the uncontradicted evidence of the landlord and the comprehensive, credible documentary evidence, I find the landlord has met the burden of proof on a balance of probabilities with respect to all aspects of the claim.

I find the tenant failed to pay rent and reimburse the landlord for expenses for which the tenant was responsible contrary to the tenancy agreement and the Act. I find the tenant's breach of the Act caused the landlord to incur the expenses claimed for which the landlord reasonably seeks compensation. I find the landlord has met the burden of proof with respect to the amount of the outstanding rent and expenses claimed. I find the landlord has made reasonable efforts to mitigate loss.

Therefore, I find the landlord is entitled to a monetary order pursuant to section 67 in the amount of \$8,664.15 for unpaid rent and the expenses. As well, I grant an award to the landlord for reimbursement of the \$100.00 filing fee.

As explained in section D.2 of *Policy Guideline #17*, the Residential Tenancy Act provides that where an arbitrator orders a party to pay any monetary amount or to bear all or any part of the cost of the application fee, the monetary amount or cost awarded to a landlord may be deducted from the security deposit held by the landlord and the monetary amount or cost awarded to a tenant may be deducted from any rent due to the landlord.

Further to the offsetting provisions under the Policy Guideline and section 72, the landlord is entitled to apply the security deposit of \$800.00 to the monetary award.

A summary of my monetary findings follow:

ITEM	AMOUNT
Outstanding rent and expenses	\$8,664.15
Reimbursement of filing fee	\$100.00
(Less deposit)	(\$800.00)
<b>Monetary Order Landlord</b>	<b>\$7,964.15</b>

I grant the landlord a Monetary Order of **\$7,964.15**.

Conclusion

I grant a Monetary Order to the landlord in the amount of **\$7,964.15**.

This Monetary Order must be served on the tenant. If the tenant fails to comply with this order, the landlord may file the order in the Provincial Court (Small Claims) to be 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: September 17, 2020

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Residential Tenancy Branch