



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: MNRL, FFL, MNDCL

### Introduction

In this dispute, the landlord seeks a monetary order for unpaid rent, and other miscellanea, under section 67 of the *Residential Tenancy Act* (the “Act”). In addition, the landlord seeks recovery of the filing fee under section 72 of the Act.

The landlord filed an application for dispute resolution on May 3, 2020 and a dispute resolution hearing was held on September 1, 2020. The landlord attended the hearing and were given a full opportunity to be heard, present affirmed testimony, make submissions, and call witnesses. The tenant did not attend.

The landlord gave evidence that she served the Notice of Dispute Resolution Proceeding package (the “Notice”) on the tenant by way of Canada Post registered mail within one to days of receiving the Notice from the Residential Tenancy Branch. The landlord had a copy of the registered mail receipt and tracking number.

Based on the undisputed evidence of the landlord I find that the tenant was served in accordance with both the Act and the *Rules of Procedure*.

I have only reviewed and considered oral and documentary evidence submitted meeting the requirements of the *Rules of Procedure*, to which I was referred, and which was relevant to determining the issues of this application.

### Issues

1. Is the landlord entitled to a monetary order for some or all of the amount claimed?
2. Is the landlord entitled to recovery of the filing fee?

### Background and Evidence

This tenancy began on October 1, 2019 and monthly rent, which is due on the first of the month, is \$3,500.00. The tenant paid a security deposit of \$1,750.00. A copy of the written Residential Tenancy Agreement (the “Agreement”) was submitted into evidence. The tenant continues to reside in the rental unit.

The landlord testified that they initially sought \$10,500.00 in rent arrears. According to the landlord the tenant has not paid rent for April, May, and June 2020. However, since the application was filed, the tenant has not paid rent for August or September 2020 and rent arrears now total \$17,500.00. Pursuant to Rule 4.2 of the *Rules of Procedure*, “In circumstances that can be reasonably anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.” The amendment to the amount sought by the landlord is therefore approved.

In addition to the rent arrears, the landlord seeks interest (“paying insurance, mont [sic] of rent, etc) of \$36.67, a post office charge of \$23.00, a cheque fee of \$6.50, and they seek \$100.00 for the Residential Tenancy Branch application filing fee, for a total of \$10,667.17. The landlord clarified that the cheque fee of \$6.50 should not have been included in the amount claimed.

Submitted into evidence by the landlord were a series of text message conversations between the parties regarding the late and unpaid rent.

At the end of the hearing, the landlord inquired as to the procedure for issuing a 10 Day Notice for Unpaid Rent. I informed her that I would include a reference to the ministerial order (entitled the “COVID-19 (*RESIDENTIAL TENANCY ACT AND MANUFACTURED HOME PARK TENANCY ACT*) REGULATION”) and a link to the order.

The order may be found at [www.bclaws.ca/civix/document/id/oic/oic\\_cur/0449\\_2020](http://www.bclaws.ca/civix/document/id/oic/oic_cur/0449_2020). If the landlord has further questions regarding this issue, she may contact the Residential Tenancy Branch information line.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, regulations or the tenancy agreement, unless the tenant has a right under the Act to not pay the rent. The Agreement requires the tenant to pay \$3,500.00 in rent on the first of the month.

The landlord testified, and provided documentary evidence to support her submission, that the tenant has not paid rent for April, May, June, August or September 2020. Thus, taking into consideration the undisputed oral and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving her claim for \$17,500.00 for rent arrears.

Regarding the claim for interest and post office charges, those are costs that are not recoverable by way of a monetary order (see section 85(1)(b) of the Act), and as such these amounts are not awarded.

Finally, section 72(1) of the Act provides that an arbitrator may order payment of a fee under section 59(2)(c) by one party to a dispute resolution proceeding to another party. A successful party is generally entitled to recovery of the filing fee. As the landlord was successful, I grant her claim for reimbursement of the \$100.00 filing fee.

### Conclusion

I hereby grant the landlord a monetary order in the amount of \$17,600.00, which must be served on the tenant. If the tenant fails to pay the landlord the amount owed, the landlord may file, and enforce, the order in the Provincial Court of British Columbia.

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: September 1, 2020

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Residential Tenancy Branch