



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL, MNDCL, MNDL, OPR, FFL

### Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution filed under the *Residential Tenancy Act* (the "*Act*"), made on May 11, 2020. The Landlords applied for a monetary order for unpaid rent, for a monetary order for damage caused by the tenant, their pets or guests to the unit, site or property, for a monetary order for monetary loss or other money owed, and to recover the filing fee paid for the application. The matter was set for a conference call.

One of the Landlords attended the hearing and was affirmed to be truthful in their testimony. As the Tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the Act and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified the Application for Dispute Resolution, and Notice of Hearing had been sent to the Tenant by email on May 12, 2020, as permitted by Residential Tenancy (COVID-19) Order, MO M089 (Emergency Program Act) made March 30, 2020 (the "Emergency Order"). Accordingly, I find that the Tenant has been served with the Notice of Dispute Resolution Hearing documentation in accordance with the *Act*.

The Landlords submitted an amendment application to the Residential Tenancy Branch on August 13, 2020, requesting an order of possession to enforce a 10-Day Notice for Unpaid Rent (the Notice) issued on July 19, 2020, be added to their claim.

The Landlord was provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Are the Landlords entitled to an order of possession?
- Are the Landlords entitled to a monetary order for unpaid rent?
- Are the Landlords entitled to a monetary order for damage caused by the tenant, their pets or guests to the unit, site or property?
- Are the Landlords entitled to a monetary order for compensation for my monetary loss or other money owed?
- Are the Landlords entitled to the return for their filing fee for this application?

### Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The tenancy agreement shows that the tenancy began on February 14, 2020, as a month to month tenancy. That rent in the amount of \$550.00 was to be paid by the fifteenth day of each month. The tenancy agreement recorded that a \$275.00 security deposit was due for this tenancy; however, the Landlord testified that the security deposit was not paid for this tenancy. The Landlord submitted a copy of the Tenancy agreement into documentary evidence.

The Landlord testified that the tenancy ended on August 22, 2020, when the tenant moved out of the rental unit. The Landlord testified that they no longer require an Order of possession.

The Landlord initial testified that the Tenant had paid the first month's rent for the period of January 15, 2020, to February 14, 2020. The Landlord then changed their testimony and testified that the Tenant had paid the first month's rent for the period of February 15, 2020, to March 15, 2020. The Landlord also testified that the Tenant had not paid any rent since February 2020. The Landlord is requesting to be awarded the

outstanding rent in the amount of \$2,750.00 for the period between March 15, 2020, to August 15, 2020.

The Landlord testified that they were also seeking \$1,600.00 in damages and losses due to this tenancy. The Landlord testified that the Tenant had caused another renter, who shared the rental unit with this Tenant, to move out, causing them a loss in rental income, and that this Tenant had damaged the window screens in the rental unit. The Landlord testified that they are seeking \$100.00 due to the damaged screens and \$1,500.00 in lost rental income.

When the Landlord was asked for additional details on this portion of their claim, and for supporting documentary evidence, the Landlord was unable to provide the requested information. Specifically, the Landlord could not testify to the breakdown of the period of time and rent amount, which made up the \$1,500.00 in lost rental income. Additionally, the Landlord testified that they did not submit any documentary evidence to support this portion of their claim.

### Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities that:

Section 26(1) of the *Act* states that a tenant must pay the rent when it is due under the tenancy agreement.

#### ***Rules about payment and non-payment of rent***

**26 (1)** *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

*(2) A landlord must provide a tenant with a receipt for rent paid in cash.*

*(3) Whether or not a tenant pays rent in accordance with the tenancy agreement, a landlord must not*

*(a) seize any personal property of the tenant, or*

*(b) prevent or interfere with the tenant's access to the tenant's personal property.*

*(4) Subsection (3) (a) does not apply if*

*(a) the landlord has a court order authorizing the action, or*

*(b)the tenant has abandoned the rental unit and the landlord complies with the regulations.*

In this case, I accept the undisputed testimony of the Landlord that the rent has not been paid for five months for this tenancy, in the amount of \$2,750.00, for the period between March 15, 2020, to August 15, 2020. I find that the Tenant breached section 26 of the *Act* when they did not pay the rent as required under the tenancy agreement.

Therefore, I find that the Landlord has established an entitlement to a monetary award in the amount of \$2,750.00, comprised of \$550.00 for the March 15, 2020 rent, \$550.00 for the April 15, 2020 rent, \$550.00 for the May 2020 rent, \$550.00 for the June 15, 2020 rent, and \$550.00 for July 2020 rent.

As for the Landlords' claim for \$1,600.00 in compensation for damaged window screens and lost rental income, after reviewing the totality of the Landlords testimony and documentary evidence, I find that there is insufficient evidence before me to support this portion of the Landlords claim. Therefore, I dismiss this portion of the Landlords' claim in its entirety and without leave to reapply.

Section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlords have been partially successful in their application, I find that the Landlords are entitled to recover the \$100.00 filing fee paid for this hearing.

I grant the Landlords a monetary order of \$2,850.00, consisting of \$2,750.00 in rent and the recovery of the \$100.00 filing fee for this hearing.

Conclusion

I find for the Landlords under sections 26, 65 and 72 of the Act. I grant the Landlords a **Monetary Order** in the amount of **\$2,850.00**. The Landlords are 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: September 10, 2020

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Residential Tenancy Branch