



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LANGARA GARDENS HOLDINGS LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNRL-S, MNDCL-S, FFL

### Introduction

On May 19, 2020, the Landlord 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*.

J.K. attended the hearing as an agent for the Landlord; however, the Tenants did not appear during the 20-minute teleconference hearing. All parties in attendance provided a solemn affirmation.

J.K. advised that she served a Notice of Hearing and evidence package to each Tenant by registered mail on May 20, 2020 (the registered mail tracking numbers are noted on the first page of this Decision). These packages were sent to the Tenants at the dispute address and the tracking history indicated that one package was successfully delivered. Based on this undisputed testimony, I am satisfied that the Tenants have been deemed to have received the Notice of Hearing and evidence packages. 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.

J.K. advised that the tenancy started on May 1, 2014, that rent was currently established at \$1,505.00 per month, and that it was due on the first day of each month. A security deposit of \$650.00 was also paid. A copy of the signed tenancy agreement was submitted into evidence.

She stated that Tenant J.M. emailed the Landlord on May 28, 2020 advising that the Tenants were not coming back to the rental unit. She submitted that the Tenants abandoned the rental unit and the Landlord took possession back on June 12, 2020.

She advised that the Landlord was seeking compensation in the amount of **\$3,155.00**, which was comprised of \$1,505.00 for April 2020 rental arrears, \$25.00 for an April 2020 NSF charge, \$60.00 for the April 2020 parking fee, \$1,505.00 for May 2020 rental arrears, and \$60.00 for the May 2020 parking fee. She provided a copy of a rent ledger to support her position that the Tenants were still in arrears this amount. However, a copy of the parking agreement was not submitted as documentary evidence.

### 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 Tenants, this Application has been dismissed with leave to reapply.

As the Landlord was not successful in these 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 21, 2020

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Residential Tenancy Branch