



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Belmont Properties and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, FF

### Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- a monetary order for unpaid rent; and
- recovery of the filing fee.

The landlord's agents and the tenants attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

The tenant confirmed receiving the landlord's evidence and not providing evidence themselves.

Thereafter both parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, only the relevant evidence in this matter is described in this Decision.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation and to recovery of the filing fee paid for this application?

### Background and Evidence

The landlord submitted a written tenancy agreement showing a tenancy start date of August 1, 2017, a fixed term through July 31, 2018, monthly rent of \$1,503.00, due on the 1<sup>st</sup> day of the month, and a security deposit \$704.69 being paid by the tenants. The written tenancy agreement shows the tenancy ends at the end of the fixed term.

The landlord submitted that the tenancy is ongoing and the current monthly rent is \$1,602.

The landlord submitted that the tenants did not pay the monthly rent for the months of April through August, 2020 and owed a total rent deficiency of \$8,010 for those months.

The agents submitted that the tenants have been given a repayment plan for the outstanding rent deficiency incurred from April to August 2020, with the first payment being due on January 1, 2021. The agents said that they negotiated the terms of the repayment plan with the tenants, which is the reason the payments begin on that date. Filed into evidence was the repayment plan.

The agents submitted that they understood that any monetary order granted to them, as to the portion of the outstanding rent deficiency of \$8,010, is subject to the repayment plan.

The agents indicated they only want the monetary order in the event the tenancy end prior to the expiration of the terms of the repayment plan.

The landlord's additional relevant evidence included tenant ledger sheets and an amended application increasing their original monetary claim to account for the additional unpaid rent.

### **Tenant's response –**

The tenant confirmed agreeing to the terms of the repayment plan.

### Analysis

After reviewing the relevant evidence, I provide the following findings, based upon a balance of probabilities:

Under section 26 of the Act, a tenant is required to pay rent in accordance with the terms of the tenancy agreement, whether or not the landlord complies with the Act, the Regulations or the tenancy agreement and is not permitted to withhold rent without the legal right to do so.

In this case however, despite this provision of the Act, on July 30, 2020, the *COVID-19 Regulation* went into effect. This Regulation was made under the Emergency Program Act and set out that the emergency period began on March 18, 2020, and ended on the date on which the last extension of the declaration of the state of emergency made on March 18, 2020 expires or is cancelled. This Regulation can be accessed through:

[https://www.bclaws.ca/civix/document/id/crbc/crbc/195\\_2020](https://www.bclaws.ca/civix/document/id/crbc/crbc/195_2020)

Under this Regulation, the rent due during this emergency period is known as the “affected rent”.

Section 1.02 of the *COVID-19 Regulation* requires that a landlord must give the tenant a repayment plan if the tenant has overdue affected rent and the landlord and tenant did not enter into a prior agreement. Section 1.03 provides the terms of a repayment plan.

In connection with the *COVID-19 Regulation*, Residential Tenancy Policy Guideline 52 was enacted.

Under this Guideline, “affected rent” is defined as 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.

Guideline 52, Section E states that 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.

Under the Rules, a landlord may amend their application at the hearing 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.

I therefore allowed the landlord to increase their monetary claim to include the unpaid rent incurred through August 2020.

Upon hearing from the landlord's agents and the tenants and considering their documentary evidence, I find the tenants owed the amount of \$8,010 for affected rent deficiency incurred during the specified period of April through August 2020. That amount is subject to the repayment plan, with which the tenants have agreed and acknowledged.

I grant the landlord recovery of their filing fee of \$100, due to their successful application and pursuant to section 72(1) of the Act.

### Conclusion

I issue a monetary order in the landlord's favour in the amount of \$8,110 under the following terms:

ITEM	AMOUNT
1. Unpaid affected rent (inc. in repayment plan)	\$8,010
2. Filing fee	\$100
<b>TOTAL MONETARY ORDER</b>	<b>\$8,110</b>

**The amount of \$8,010 is subject to the repayment plan issued by the landlord to the tenants.** Should the landlord ever seek enforcement of the monetary order, any payments received will be applied to the outstanding affected rent. *[My emphasis]*

The tenants are cautioned that if the tenancy ends prior to the unpaid affected rent being paid in full according to the repayment plan, the monetary order will no longer be subject to the terms of the repayment plan and any amount left owing will be due and payable in full.

The landlord is provided with this order in the above terms.

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: October 29, 2020

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Residential Tenancy Branch