



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL-S, MNDCL, FFL

### Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution filed under the *Residential Tenancy Act* (the "*Act*"), made on July 6, 2020. The Landlords applied for a monetary order for unpaid rent, for a monetary order for monetary loss or other money owed, permission to retain the security deposit 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 that the documents were sent by registered mail on July 9, 2020, a Canada Post tracking number was provided as evidence of service. Section 90 of the *Act* determines that documents served in this manner are deemed to have been served five days later. I find that the Tenant had been duly served in accordance with the *Act*.

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.

### Preliminary Matter

During the hearing, the Landlord requested to withdraw their claim for \$167.05 in compensation for my monetary loss or other money owed, testifying that these funds had been payment since applying got these proceedings.

I find it appropriate to grant the Landlord's request and find that the claim for \$167.05 in compensation for my monetary loss or other money owed has been withdrawn.

### Issues to be Decided

- Are the Landlords entitled to a monetary order for rent?
- Are the Landlords entitled to retain the security deposit?
- Are the Landlords entitled to the return for their filing fee for this application?

### Background and Evidence

The tenancy agreement shows that the tenancy began on March 1, 2020, as a month to month tenancy. That rent in the amount of \$1,800.00 was to be paid by the first day of each month, and that the Landlords had been given an \$850.00 security deposit and an \$850.00 pet damage deposit at the outset of this tenancy.

The Landlord testified that one of the Tenants to this tenancy agreement moved out of the rental unit in April 2020 and that an agreement had been reached between the Landlords and the remaining Tenant to continue the tenancy with one Tenant. The Landlord testified that due to the COVID -19 pandemic, the agreement to continue the tenancy was reached by email. The Landlord submitted the email chain for the amended tenancy agreement into documentary evidence.

The Landlord testified that the Tenant ended this amended tenancy as of July 1, 2020. The Landlord submitted the email notice to end tenancy into documentary evidence.

The Landlord testified that the Tenant had only paid half the rent for May and half the rent for June 2020 and that when they moved out, there was an outstanding rent balance due of \$1,800.00 for this tenancy. The Landlord is requesting a monetary order for the outstanding rent, \$900.00 for May 2020 and \$900.00 for June 2020.

### Analysis

Based on the evidence before me, the testimony of these parties, 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 full rent has not been paid for May and June 2020 for this tenancy. 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 \$1,800.00, comprised of \$900.00 in rent for May 2020, and \$900.00 in rent for June 2020 rent. I grant permission to the Landlord to retain the security and pet damage deposits they are holding for this tenancy in partial satisfaction of this award.

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 successful in their application, I find that the Landlords are entitled to recover the \$100.00 filing fee paid for this hearing.

Overall, I grant the Landlords a monetary order of \$200.00, consisting of \$1,800.00 in unpaid rent, \$100.00 the recovery of the filing fee for this hearing, less the \$850.00 security deposit and the \$850.00 pet damage deposit they are holding for this tenancy.

### Conclusion

I find for the Landlords under sections 26, 67 and 72 of the Act. I grant the Landlords a **Monetary Order** in the amount of **\$200.00**. 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: October 29, 2020

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Residential Tenancy Branch