



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Heartbeat Homes Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNRL-S, FFL

### Introduction

The landlord filed an Application for Dispute Resolution on August 6, 2020 seeking an order to recover monetary loss of unpaid rent. Additionally, they applied for the cost of the hearing filing fee.

The matter proceeded by way of a hearing on November 26, 2020 pursuant to section s. 74(2) of the *Residential Tenancy Act* (the “Act”). In the conference call hearing I explained the process and provided both parties the opportunity to ask questions.

The landlord confirmed they provided notice of this hearing and their prepared documentary evidence to the tenant prior to the hearing. The tenant likewise provided their evidence to the landlord in advance. Each party verified they received the evidence of the other. On this basis, the hearing proceeded.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this Application pursuant to section 72 of the *Act*?

### Background and Evidence

The landlord submitted a copy of the tenancy agreement for this hearing and spoke to the terms. The tenant and landlord signed the agreement on October 12, 2019, as stated by the landlord in the hearing. The tenancy started on October 30, 2019 for a

fixed term ending on April 30, 2020. The tenancy continued as a month-to-month tenancy after that, from May onwards.

The monthly rent is provided in section 3 of the agreement. This states the “tenant will pay the rent of \$1000 each month”. A notation on the agreement shows: “the first 6 months rent is \$800.00 then \$1000”. Both parties verified this detail in the hearing.

The agreement shows the tenant paid a security deposit of \$500.

The tenancy ended when the tenant gave notice to end this tenancy on July 12, 2020. The tenant initially stated to the landlord they would be out at the end of July. In the hearing the landlord stated they were out earlier than that date, and ready for an inspection of the unit together with the landlord on July 23, 2020. A screenshot of messages between the landlord and the tenant, dated July 12, shows the tenant stating: “You keep the damage deposit. I’ll give you 300 bucks to make it a months rent for August.”

The landlord’s claim for compensation is: \$200 for each of the months of May, June and July 2020; and \$1000 for the month of August 2020. This is a recovery of the rent amounts owing for the full amount of rent at \$1000, as well as the final month of August because of the tenant notifying the landlord of their ending the tenancy with late notice. The landlord provided copies of dated receipts showing \$800 paid each month May, June and July. This was past the time provided for in the “first 6 months rent is \$800.00” as provided for in the agreement, with the full amount of rent owing after that.

In the hearing the landlord stated they spoke to the tenant about the amounts owing “a couple of times” and the tenant responded to say it was not required because of the “COVID emergency and should not increase.”

The tenant in the hearing stated they recall this communication. In their evidence they provided a screenshot of the information they provided to the landlord, officially showing the information from BC government to state: “If a landlord has already given a notice for rent increase, the increase will not come into effect until after the state of emergency is over.” The tenant’s submission is that even if there was a signed agreement on the rent amount switching to \$1000 per month, this directive from the government applies and the they should not pay for what they deem to be a “rent increase” at that time.

In response to this, the landlord presented that as stated in the agreement it was an initial rent reduction, and not a rent increase they were implementing months into the tenancy.

### Analysis

I am satisfied from the evidence and testimony of the parties that a tenancy agreement was in place. The document shows the specific terms of the rental amount and the amount of the deposit paid.

The *Act* section 45 sets out how a tenant may end a tenancy:

45(1)

A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

- (a) is not earlier than one month after the date the landlord receives the notice, and
- (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

I find the tenant breached the *Act* by ending the tenancy abruptly without proper advance notice on July 12, 2020. The tenant did not dispute this aspect of the issue. With that, I award the landlord the full amount of rent owing for the next month of August because the tenant gave incorrect notice. This is the loss of rent up to the earliest time the tenant could legally have ended the tenancy at the end of August 2020, the next full month of rent as claimed by the landlord.

On the correct amount of rent to be paid within this timeframe from May 2020 through to August 2020, I accept the evidence before me that the tenant failed to pay the full amount owing of \$1000, as specified within the tenancy agreement.

The agreement stated the full amount of rent to be \$1000. This was reduced for the first 6 months to \$800. The tenant did not present evidence that shows the landlord later implemented a rent increase – neither with or without proper notification, nor haphazardly in casual conversation. I find the rent amount was set at the beginning of the tenancy, agreed to by the tenant at the time they signed the tenancy agreement. There was an initial rent reduction; therefore, there was no subsequent rent increase.

For this reason, I find the landlord is entitled to recovery of the rent amount owing for each of May June and July; this is \$600. In addition, the landlord is entitled to the full amount of rent for the month of August; this is \$1000.

The *Act* section 72(2) gives an arbitrator the authority to make a deduction from the security deposit held by the landlord. The landlord has established a claim of \$1,600. After setting off the security deposit amount of \$500, there is a balance of \$900. I am authorizing the landlord to keep the security deposit amount and award the balance of \$900 as compensation for rent owing.

As the landlord is successful, I find that they are entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

Pursuant to sections 67 and 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$1000. The landlord is 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 *Act*.

Dated: November 27, 2020

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Residential Tenancy Branch