



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL-S, MNDCL-S, FFL

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order for unpaid rent and/or utilities in the amount of \$750.00; and for a monetary order for damage or compensation for damage under the Act in the amount of \$99.21, retaining the security deposit for these claims; and to recover the \$100.00 cost of their Application filing fee.

The Landlord appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Tenants. The teleconference phone line remained open for over 20 minutes and was monitored throughout this time. The only person to call into the hearing was the Landlord, who indicated that she was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Landlord.

I explained the hearing process to the Landlord and gave her an opportunity to ask questions about the hearing process. During the hearing the Landlord was given the opportunity to provide her evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Tenants did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act states that each respondent must be served with a copy of the Application for Dispute Resolution, the Notice of Hearing and the documentary evidence. The Landlord testified that she served the Tenants with these documents in person on July 15, 2020. I find it more likely than not that the Tenants were served with the Notice of Hearing and evidentiary documents in accordance with the Act. I, therefore, admitted the Application and evidentiary documents, and I continued to hear from the Landlord in the absence of the Tenants.

### Preliminary and Procedural Matters

The Landlord provided the Parties' email addresses in the Application and confirmed them at the outset of the hearing. She also confirmed her understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

### Issue(s) to be Decided

- Is the Landlord entitled to a monetary order, and if so, in what amount?
- Is the Landlord entitled to recovery of the Application filing fee?

### Background and Evidence

The tenancy agreement sets out that the fixed-term tenancy began on April 27, 2020, running to May 1, 2021, and then operating on a month-to-month basis. The Agent confirmed that the Tenants were required by the fully executed tenancy agreement to pay the Landlord a monthly rent of \$750.00, due on the first day of each month. The Agent said the Tenants paid the Landlord a security deposit of \$375.00, and no pet damage deposit. The Agent said that the Tenants vacated the rental unit on August 7, 2020, and did not provide their forwarding address in writing to the Landlord.

The Agent noted that the tenancy agreement states that electricity and internet are not included in the rent. It also states: "Tenant will pay 50% of the electricity bill bi-monthly (Jan, Mar, May, Jul, Sept, Nov)."

### **#1 Unpaid Rent Owing for July and August 2020 → \$1,500.00**

The Landlord said that the Tenants did not pay any rent for July or August 2020, and the Landlord said she would like to amend her Application to reflect the full amount that was not paid. She said: "They paid June rent on June 8, but nothing from that day forward."

The Landlord submitted a monetary order worksheet and amended the amounts to include the August rent owing and the May 16 to July 15 electricity bill, as follows.

|   | Receipt/Estimate<br>From | For            | Amount   |
|---|--------------------------|----------------|----------|
| 1 | tenancy agreement        | July 2020 rent | \$750.00 |

|   |                  |                                   |                   |
|---|------------------|-----------------------------------|-------------------|
|   | “ “              | August 2020 rent                  | \$750.00          |
| 2 | Electricity Bill | May 1 – 15, 2020                  | \$38.64           |
| 3 | “ “              | May 16 – July 15                  | \$123.44          |
| 4 | Internet Bill    | June 1 – 30, 2020                 | \$60.57           |
|   |                  | <b>Total monetary order claim</b> | <b>\$1,722.65</b> |

## **#2 Electricity Bill for May 1 – 15, 2020 → \$38.64**

The Landlord said the electricity bill is in her name, and that she would pay it and be reimbursed by the Tenants for their share.

The Landlord submitted a copy of an electricity bill for this time period and said that she texted and emailed the amount to the Tenants at the end of May 2020. The Landlord said that the Tenants still have not paid this amount owing.

## **#3 Electricity Bill for May 16 – July 15, 2020 → \$123.44**

The Landlord said:

I have the amount for May 16 to July 15. I sent them a text message on July 22 and an email with the bill that was for \$123.44 that they owed for that. That was just their half from [the electricity company].

## **#4 Internet bill June 1 – 30 → \$60.57**

The Landlord said that she agreed to share the internet with the Tenants, if they paid for half of this monthly bill. The Landlord submitted a copy of the bill dated July 1, 2020 for the amount owing in June 2020. This set out that the Tenants owed the Landlord \$60.57 for June 2020.

The Landlord said that she let the Tenants know about this bill in person and in an email. She also said:

They would have known the amount, because it doesn't change every month.

They didn't ever pay me for June, so I just changed the wireless password, so they didn't have access to it after that point. I changed it on July 1, 2020, so there would be no more owing.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Rule 6.6 sets out that the person making the claim bears the onus of proving their case on a balance of probabilities. In order to do so, a claimant must present sufficient evidence at the hearing to support their claim, meeting this standard of proof.

### **#1 Unpaid Rent Owing for July and August 2020 → \$1,500.00**

Section 26 of the Act states: "A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the 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." There is no evidence before me that the Tenants had a right to deduct any portion of the rent from the monthly rent due to the Landlord.

The Landlord applied for dispute resolution on July 14, 2020. At that point, the Tenants owed her rent for July 2020. However, the Tenants continued to live in the rental unit until August 7, 2020 without paying rent.

Pursuant to Rule 4.2 and section 64(3)(c) of the Act, I amend the Application for dispute resolution to correct the amount of the monetary order sought, reflecting the ongoing failure of the Tenants to pay their monthly rent owing. I find no prejudice to the Tenants, as they are aware of how much rent they have and have not paid, so they could have anticipated that the Landlord would claim reimbursement for the full amount of rent owing. Accordingly, after amending the Landlord's original amount claimed, I find it reasonable to amend the amount of the monetary order sought by the Landlord from the Tenant in unpaid rent from \$750.00 to \$1,500.00.

Based on the evidence before me overall on this matter, and pursuant to sections 26 and 67 of the Act, I award the Landlord with **\$1,500.00** from the Tenants in unpaid rent.

**#2 Electricity Bill for May 1 – 15, 2020 → \$38.64**

Section 46(6) of the Act sets out that a Landlord may consider unpaid utilities as unpaid rent, if the Landlord has served the Tenant with a written demand for payment of them, and if the utility charges are unpaid for more than 30 days after receipt of the written demand.

I find that the Tenants were required to pay half of the electricity of the residential property, pursuant to the tenancy agreement.

I find that the Landlord provided the Tenants with notice of this utility bill via text and email in May 2020. I further find that this bill remained unpaid by the Tenants at the time of the hearing, which was four months after the Landlord gave them notice of the debt. I, therefore, award the Landlord with recovery of the electricity bill for May 1 to 15, 2020, in the amount of **\$38.64**

**#3 Electricity Bill for May 16 – July 15, 2020 → \$123.44**

I find that the Landlord provided the Tenants with notice of this utility bill via text and email on July 22, 2020. I further find that this bill remained unpaid by the Tenants at the time of the hearing, which was six months after the Landlord gave them notice of the debt. I, therefore, award the Landlord with recovery of the electricity bill for May 16 to July 15, 2020, from the Tenants in the amount of **\$123.44**

**#4 Internet bill June 1 – 30 → \$60.57**

I find it more likely than not that the Landlord and the Tenants agreed to share the internet bill for the residential property, which the Landlord said was \$60.57 every month. The Landlord said that she gave the Tenants access to the internet by sharing her password with them. When they did not pay the bill for June 2020, the Landlord changed the password, so they would not owe her any more for internet.

Based on the evidence before me on this matter, I award the Landlord with **\$60.57** from the Tenants for the unpaid internet bill in June 2020.

Summary and Set Off

I find that this claim meets the criteria under section 72(2)(b) of the Act to be offset against the Tenants' security deposit of \$375.00 in partial satisfaction of the Landlord's monetary claim.

Based on the evidence before me overall, and pursuant to section 67 of the Act, I award the Landlord with **\$1,722.65** from the Tenants. The Landlord is authorized to retain the Tenants \$375.00 security deposit in partial satisfaction of this award.

I also award the Landlord recovery of the **\$100.00** Application filing fee, pursuant to section 72 of the Act.

|   | Receipt/Estimate From | For                   | Amount            |
|---|-----------------------|-----------------------|-------------------|
| 1 | tenancy agreement     | July 2020 rent        | \$750.00          |
|   | " "                   | August 2020 rent      | \$750.00          |
| 2 | Electricity Bill      | May 1 – 15, 2020      | \$38.64           |
| 3 | " "                   | May 16 – July 15      | \$123.44          |
| 4 | Internet Bill         | June 1 – 30, 2020     | \$60.57           |
|   |                       | <b>Sub-total</b>      | <b>\$1,722.65</b> |
|   |                       | Less Security Deposit | (\$375.00)        |
|   |                       | Plus, RTB filing fee  | \$100.00          |
|   |                       | <b>TOTAL</b>          | <b>\$1,447.65</b> |

Accordingly, I grant the Landlord a monetary order of **\$1,447.65** from the Tenants, pursuant to section 67 of the Act.

Conclusion

The Landlord is successful in their claim to retain the Tenants security deposit in partial satisfaction of their monetary award of \$1,722.65. The Landlord provided sufficient evidence to meet their burden of proof on a balance of probabilities.

The Landlord is also awarded recovery of the \$100.00 Application filing fee for a total

monetary award of \$1,822.65. The Landlord is authorized to retain the Tenants security deposit of \$375.00 in partial satisfaction of this award.

The Landlord is granted a monetary order for the remainder owed to them by the Tenants in the amount of **\$1,447.65**.

This Order must be served on the Tenants by the Landlord and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: November 18, 2020

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Residential Tenancy Branch