



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes: MNRL-S FFL

### Introduction

The landlord seeks compensation for unpaid rent, and recovery of the filing fee, pursuant to sections 26, 67, and 72 of the *Residential Tenancy Act* ("Act").

On July 23, 2020 the landlord filed an application for dispute resolution and a hearing was held on November 10, 2020. The landlord's agent and the tenant attended the hearing and were given a full opportunity to be heard, present testimony, make submissions, and call witnesses. No issues of service were raised by the parties.

It should be noted that the correct name of the landlord was confirmed with the landlord's agent, and the name is corrected on the application.

### Issues

1. Is the landlord entitled to compensation as claimed?
2. Is the landlord entitled to recovery of the filing fee?

### Background and Evidence

I have only reviewed and considered oral and documentary evidence submitted meeting the requirements of the *Rules of Procedure*, to which I was referred, and which was relevant to determining the issues of this application. Further, only relevant evidence necessary to explain my decision is reproduced below.

The tenancy in this dispute began on June 1, 2007 and ended on July 31, 2020 as a result of a previous decision issued by an arbitrator on July 21, 2020. Monthly rent was \$487.50, and the tenant paid a security deposit of \$280.00, which the landlord currently holds in trust. According to the landlord's application:

Tenant was ordered to move out on March 31/2020. Notice was served on January 8/2020. Tenant remains in unit, and cancelled the Ministry of Social Development payments to the landlord. Tenant has been over holding for 4 months, with non payment.

In total, the landlord seeks \$1,888.00 in unpaid rent for the months of April, May, June, and July 2020, and, they seek recovery of the \$100.00 application filing fee.

The tenant testified about various issues they had in dealing with certain government ministries, and that there were some errors she made in handling those issues in a timely manner. She admitted that there was a "slip of the mind" and that while she does not dispute that she owes that money, she is hoping to get things sorted out soon.

The landlord and the tenant spoke of various issues and exchanged information, and then I ended the hearing after everyone had finished their testimony and submissions.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or some of the rent.

The landlord's agent testified, and provided documentary evidence to support their submission, that the tenant owes \$1,888.00 in rent arrears. The tenant did not dispute this. Therefore, taking into consideration all of the testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving their claim for \$1,888.00.

Section 72(1) of the Act permits an arbitrator to order payment of a fee under section 59(2)(c) by one party in a dispute to another party. A successful party is generally entitled to recovery of the filing fee. As the applicant landlord was successful, I grant their claim for reimbursement of the \$100.00 filing fee, for a total award of \$1,988.00.

Section 38(4)(b) of the Act permits a landlord to retain an amount from a security or pet damage deposit if “after the end of the tenancy, the director orders that the landlord may retain the amount.” As such, I order that the landlord may retain the tenant’s \$280.00 security deposit in partial satisfaction of the above-noted award.

The balance of the award – \$1,708.00 – is granted to the landlord by way of a monetary order that is issued in conjunction with this Decision.

### Conclusion

I grant the landlord a monetary order in the amount of \$1,708.00, which must be served on the tenant. If the tenant does not pay the landlord the amount owed, the landlord may file and enforce the order in the Provincial Court of British Columbia.

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: November 10, 2020

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Residential Tenancy Branch