



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCL-S, FFL

### Introduction

This hearing was convened as a result of the Landlords' Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order for damage or compensation for damage under the Act in the amount of \$14,900.00, retaining the security deposit for this claim; and to recover the \$100.00 cost of their Application filing fee.

The Tenants and the Landlords appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing, the Tenants and the Landlords were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. 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.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing. However, I note that the Tenants confirmed that they had submitted evidence to another hearing, but that they had not uploaded any evidence for this hearing, nor served any evidence on the Landlord for the matters before me.

### Preliminary and Procedural Matters

The Landlords provided the Parties' email addresses in the Application, and the Parties confirmed their accuracy in the hearing. They also confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing.

### Issue(s) to be Decided

- Are the Landlords entitled to a monetary order, and if so, in what amount?
- Are the Landlords entitled to recovery of the \$100.00 Application filing fee?

### Background and Evidence

The Parties agreed that the fixed-term tenancy began on June 1, 2018, running to May 31, 2020, and that it then operated on a month-to-month basis. They agreed that the Tenants paid the Landlords a monthly rent of \$4,100.00, due on the first day of each month. The Parties agreed that the Tenants paid the Landlords a security deposit of \$2,000.00, and no pet damage deposit. The Landlords retained the security deposit to apply to this claim.

The Parties agreed that the Tenants provided Landlords with their notice to end the tenancy with an effective vacancy date of July 31, 2020. In the hearing, the Parties confirmed that July 31, 2020 was the Tenants' last day as tenants in the rental unit. They also confirmed that the Tenants provided the Landlords with their forwarding address via email on August 4, 2020.

The Landlords submitted a copy of a monetary order worksheet, which they say sets out what the Tenants have paid and what they owe the Landlords in unpaid rent.

|   | Month      | Amount Paid                       | Amount Owing       |
|---|------------|-----------------------------------|--------------------|
| 1 | April 2020 | \$500.00 Subsidy                  | \$3,600.00         |
| 2 | May 2020   | \$500.00 Subsidy                  | \$3,600.00         |
| 3 | June 2020  | \$500.00 Subsidy                  | \$3,600.00         |
| 4 | July 2020  | \$0.00                            | \$4,100.00         |
|   |            | <b>Total monetary order claim</b> | <b>\$14,900.00</b> |

In the hearing, the Landlords said:

The Tenants paid rent for March [2020], but not for April - the rent that was due

on April 1. On April 2<sup>nd</sup> they emailed saying that they could not pay rent. They would not agree to a deferral; they wanted the Landlord to absorb the rent, so no rent was paid from April through July.

The Tenants said:

There was some money paid through the subsidy for April through June; I'm not sure why the subsidy for July wasn't done. It's news to me that the \$500.00 was not submitted. It should have been done in July. We initiated that and the Landlords agreed to that. I did it every month to try to get through a tough situation. It is all Tenant-initiated. The Tenant does part one and the Landlord gets part two.

The Landlords said:

There is no evidence that they didn't apply, but I turn your attention to tab 20 – page 49 – [of our submission]. [The subsidy] wasn't supposed to be renewed on a month to month basis, but one time for April to June. The reapplication was for July and August. They would have had to reapply.

The Tenants said:

I wasn't aware that they didn't receive it in July. We initiated it in the Spring; it doesn't make sense that they didn't get it in July.

The Landlords' Tab 20 is a document entitled: "BC Temporary Rental Supplement Program", which says the following:

**BC Temporary Rental Supplement Program**

***BC-TRS FAQ***

**Program extension**

The BC-TRS is now also available for July and August 2020. The program criteria (listed below) remains the same.

**A. Do I need to complete a new application if I have already been getting the supplement?**

Those who have received the supplement in April, May or June and whose files were still active in June, do not need to complete a new application. They will

receive an email with a link to a simple form where they will be asked to confirm if they plan to continue living at the same address for July and August.

**B. What does the confirmation process look like?**

Those who have received the supplement in April, May or June will receive an email asking them to confirm that they plan to continue living at the same address for July and August. You will need to click on the link in the email, which will bring you to a short online form that you need to fill out.

**C. When will I get the email asking me to confirm my details for July and August?**

Emails will be sent in the first week of July. If you have not been receiving emails from BC-TRS to confirm monthly payments, please call us at 778-452-2836 or toll-free at 1-877-757-2577 to make sure we have your correct email address.

**D. What will I need to provide?**

There is no need to provide any documents. We just want to make sure that you are still living at the same address for July and/or August.

**E. Is there a deadline for completing the confirmation?**

All confirmation forms must be completed no later than August 14, 2020. However, it is recommended that you complete the confirmation as soon as possible so that the payments can be made in a timely manner.

. . .

The Tenants said:

[The Landlords] didn't sign the move-in inspection, so they don't have the ability to withhold the security deposit according to the Act. We have the option of asking for double [the security deposit back]. Didn't sign the move-in [inspection report]. That would have to be entertained in any sort of offset. We're paying a lot of money in rent and appliances, . . . We hired a third-party home inspector to validate our concerns, which are substantial through the entire length of tenancy.

We deserve to have a furnished, working fridge, stove, and the carpenter's ant nest . . .

The Landlords said:

Regarding the first move-in inspection – it took place on May 25, 2019. We mailed it to the Tenants in June, but neither Party signed, because it was incomplete at the time. We wanted to make some painting to the outside of the house, but the tenancy broke down upon signing the tenancy agreement. The Landlords made multiple attempts in writing to conduct the move-in, but the Tenants never agreed to move forwards – multiple attempts in writing.

The BC Subsidy – the renewal for July was brought to the Tenants' attention on July 10 at tab 15, page 40. This is an email from [the Landlord] to [the Tenants]. It notes the amount [of rent] outstanding, and the July outstanding amount is without the subsidy, which shows it was not renewed. The Tenants were aware that the Landlord never received that subsidy.

The Tenants said:

The move-in inspection was never signed off. We had a previous hearing, and [the arbitrator] had dismissed it entirely with leave to reapply, so we have obviously put it into court with significant material. The arbitrator didn't want to get into it.

They're asking for a lot and they don't want to consider that for two years they left us high and dry with a property that didn't work . . . our rights to quiet enjoyment, always something going on . . .

### Analysis

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

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 Landlords. The amendments to the Act during the State of Emergency did not authorize that tenants were not required to pay rent. Rather, the Act stated that landlords were not able to evict tenants for unpaid rent.

Further, as set out on the RTB website, parties are required to enter a repayment plan for unpaid rent during the State of Emergency:

To give tenants a reasonable timeframe to pay back any rent they owe from the specified period of March 18, 2020 to August 17, 2020, the Province has introduced a repayment framework.

- A landlord is required to give their tenants a repayment plan for unpaid rent or utilities due during the specified period of March 18, 2020 to August 17, 2020
- If the landlord and the tenant entered into a prior agreement for unpaid rent or utilities it can be replaced with a new agreement, by either the landlord or tenant

I find this demonstrates that tenants are required to pay landlords any rent that remained unpaid during the State of Emergency. However, given that the Tenants ended the tenancy on July 31, 2020, they are not eligible for the Repayment Plan, although, they may wish to propose such a repayment plan to the Landlords, as a result of this Decision.

The Tenants argued that the Parties did not sign the condition inspection report after inspecting the rental unit. However, they did not explain how this authorizes them to fail to pay their rent.

Based on the evidence before me overall, and pursuant to section 67 of the Act, I award the Landlords with \$14,900.00 in unpaid rent from the Tenants.

Further, I award the Landlords with recovery of the \$100.00 Application filing fee for a total award of \$15,000.00 from the Tenants.

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 \$2,000.00 in partial satisfaction of the Landlords' monetary claim. Accordingly, I grant the Landlords a Monetary Order of \$13,000.00 from the Tenants, pursuant to sections 67 and 72 of the Act.

### Conclusion

The Landlords are successful in their Application for a Monetary Order for the unpaid rent owed to them by the Tenants. I also award the Landlords recovery of the \$100.00 Application filing fee for a total award of \$15,000.00 from the Tenants.

The Landlords are authorized to retain the Tenants' \$2,000.00 security deposit in partial payment of this award. I grant the Landlords a Monetary Order under section 67 of the Act from the Tenants in the amount of **\$13,000.00** in full satisfaction of the award.

This Order must be served on the Tenants by the Landlords 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 27, 2020

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Residential Tenancy Branch