



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **MNRL-S, FFL**

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- - A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (“*Regulation*”) or tenancy agreement pursuant to section 67 of the *Act*;
 - Authorization to apply the security deposit to the award and to recover the filing fee for this application pursuant to section 72.

The landlords attended with their daughter and agent VM (“the landlord”). The landlord had the opportunity to call witnesses and present affirmed testimony and written evidence. The hearing process was explained, and an opportunity was given to ask questions about the hearing process.

The tenants (“the tenant”) did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional twelve minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

The landlord testified the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on August 25, 2020 to the tenant’s residence and deemed received by them five days later under section 90 of the *Act*, on August 30, 2020.

The landlord provided the Canada Post tracking number and copy of the receipt in support of service.

Based upon the affirmed testimony of the landlord and the documentary evidence, I find the landlord served the tenant by registered mail. Pursuant to sections 89 and 90, I find the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution as set out above.

Preliminary Issue

The landlord requested an amendment to the landlord's application to request that the landlord be authorized to change the monetary award requested from \$10,100.00 to \$10,000.00. The landlord explained that additional rent accumulated after they filed for dispute resolution. As well, they credited the tenant with \$2,500.00 by agreement between the parties for inconvenience for renovations.

The landlord clarified the claim as follows:

ITEM	AMOUNT
Outstanding rent to August 31, 2020 (reflecting a credit of \$2,500)	\$10,000.00
Reimbursement filing fee	\$100.00
(Less security deposit)	(\$1,200.00)
MONETARY AWARD REQUESTED	\$8,900.00

Section 4.2 of the Rules of Procedure provides that a landlord's monetary claim may be amended at the hearing in circumstances that can reasonably be anticipated.

I find the tenant could reasonably anticipate the landlord's claim would be amended to reflect the agreed upon reduction and rent that accumulated after the application was filed. The amendment would not be prejudicial to the respondent.

Pursuant to my authority under section 64(3)(c) of the *Act*, I amended the landlord's applications to allow the landlord to request outstanding rent in the amount of \$10,000.00.

Issue(s) to be Decided

Is the landlord entitled to:

- A monetary order for unpaid rent under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the landlord, not all details of the landlord's submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord provided the following undisputed testimony as the tenant did not attend the hearing.

This tenancy began on September 1, 2016. Monthly rent in the amount of \$2,500.00 was payable on the first day of each month. A written tenancy agreement was signed by both parties. The landlord submitted a copy of the agreement.

A security deposit of \$1,200.00 was paid by the tenant to the landlord which the landlord holds.

The tenant did not provide any notice to the landlord and moved out of the unit on August 31, 2020. The landlord claimed outstanding rent in the total amount of \$10,000.00. The landlord brought these proceedings on August 23, 2020.

The tenant has not provided the landlord with authorization to apply the security deposit to outstanding rent.

The landlord submitted a Monetary Order Worksheet and copies of rental cheques which were not honored.

The landlord requested an order authorizing the landlord to apply the security deposit to the outstanding rent and reimbursement of the filing fee. The landlord requested a Monetary Order as follows:

ITEM	AMOUNT
Outstanding rent to August 31, 2020	\$10,000.00
Reimbursement filing fee	\$100.00
(Less security deposit)	(\$1,200.00)
MONETARY AWARD REQUESTED	\$8,900.00

- Analysis

The landlord provided undisputed evidence at this hearing as the tenant did not attend.

I have reviewed all documentary evidence and testimony.

I find the tenant did not pay the overdue rent and that rent to August 31, 2020 in the amount of \$10,000.00 is owing the landlord. I accept the landlord's evidence in this regard.

Based on the uncontradicted evidence of the landlord, I find the landlord is entitled to a monetary award pursuant to section 67 in the amount of \$10,000.00 for unpaid rent.

As the landlord was successful in this application, I award the landlord reimbursement of the \$100.00 filing fee.

Pursuant to section 72, I authorize the landlord to retain the security deposit in partial satisfaction of the monetary award.

In conclusion, I grant the landlord a monetary award in the amount of **\$8,900.00** calculated as follows:

ITEM	AMOUNT
Outstanding rent to August 31, 2020	\$10,000.00
Reimbursement filing fee	\$100.00
(Less security deposit)	(\$1,200.00)
MONETARY AWARD	\$8,900.00

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Conclusion.

I grant the landlord a monetary award in the amount of **\$8,900.00**.

This order must be served on the tenants. If the tenants fail to comply with this order, the landlord may file the order in the Provincial Court (Small Claims) and be 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: November 24, 2020

Residential Tenancy Branch