



# 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 filed an Application for Dispute Resolution on August 22, 2020 seeking an order to recover monetary loss for unpaid rent. Additionally, they applied for the cost of the hearing filing fee.

The matter proceeded by way of a hearing on November 24, 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 evidence to the tenant prior to the hearing. The tenant verified they received this information. The tenant confirmed they did not provide documentary evidence in advance. 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 therein. The tenant and landlord signed the agreement on April 7, 2019. The tenancy started on May 1, 2019 on a month-to-month basis.

The monthly rent is provided in section 3 of the agreement. This states the “tenant will pay the rent of \$1450 each month” on the first of each month. Both parties verified this detail in the hearing.

The agreement shows the tenant paid a security deposit of \$725, and a pet damage deposit of \$362.50. Both these payments were on April 31, 2019.

The tenancy ended by the tenant giving their notice to end on June 24, 2020. This was via email which the landlord stated was “the way we communicated.” The tenant advised they would be vacating by the end of July 2020. On July 26, 2020 they text messaged to the landlord to say the unit was empty. In the hearing, the landlord verified this account provided by the tenant.

The landlord’s claim for compensation is \$2,900 for unpaid rent. The landlord applied to offset this balance by applying the total amount of deposits paid, \$1,087.50. With their Application, they provided “numerous emails and text messages as well as etransfers payments to support our case on unpaid rent.”

In their evidence, the landlord provided a copy of a letter dated September 22, 2020 and titled “Demand Letter”. This sets out the following:

- the tenant fell behind in the full amount of rent payments for April and May 2020 – the landlord accepted a deferred payment schedule
- On June 1 they contacted the tenant re: remainder of May rent and the full month for June
- on June 3 the tenant paid \$950 – the landlord then inquired on the remaining amount of \$300 for May
- the amount of June payment fell behind – another reminder followed from the landlord re: May amount owing, and the tenant sent \$100 on June 23
- the tenant gave notice to end the tenancy on June 24 – notice for the end of July 2020
- the tenant sent another payment of \$200
- on August 2 the tenant proposed a payment plan for \$150 per month until the remaining balance of \$2,900 was paid.

In the letter the landlord set out how they were “willing to put [the tenant’s] damage deposit of \$1,037.50 towards the remaining unpaid rent”. They required proof from the tenant that they were not working during the time of pandemic; without this, the landlord requested “the total amount owing to be paid in full by December 31<sup>st</sup> 2020.”

In the hearing, the landlord spoke to the discrepancy in the deposit total amount in the letter. The agreed to reduce this by \$50 for the removal of garbage. After forwarding the demand letter to the tenant, they had not heard from the tenant, with the last communication being at the end of July.

The landlord also provided copies of emails showing communication on rent amounts, the final condition inspection at the end of tenancy, and records of etransfers from the tenant. They also provided a string of text message dialogue with the tenant from the earlier part of 2020.

In the hearing the tenant stated that they “don’t deny that they owed the outstanding amount”. They provided an account of their employment situation throughout 2020. They stated they had proposed a payment plan to the landlord who did not accept that.

The landlord responded to the latter point by stating their difficulty with the proposed payment plan is that payments would “stretch it out to over the full year.”

### 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.

On the amount of rent to be paid fully within the timeframe presented by the landlord, I accept the evidence before me that the tenant failed to pay full amounts owing. The tenant in the hearing verified the amount to be \$2,900 in total. This is as specified by the landlord in their claim.

The landlord reiterated in the hearing that they do not find the proposal of a payment plan to be acceptable. Given that, I do not impose one upon the parties; that would normally be a prescribed solution as per continuing tenancies governed by regulations put in place due to the existing state of the pandemic.

As such, I award the full amount of rent amounts owing to the landlord as they claimed in their Application. The landlord stated they reduced the amount owing from the security deposit by \$50 for garbage removal. I reduce the final award amount by \$50 for this reason. This award amount is \$2,850.

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 \$2,850.

After setting off the security deposit amount of \$1,087.50, there is a balance of \$1,762.50. I am authorizing the landlord to keep the security deposit amount and award the balance of \$1,762.50 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 \$1,862.50. 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