



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL-S, MNDCL-S, FFL

### Introduction

The landlords filed an Application for Dispute Resolution on August 4, 2020 seeking an order to recover monetary loss for unpaid rent and other monetary loss. 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.

Both parties confirmed they received the evidence of the other in advance of the scheduled hearing time. On this basis, the hearing proceeded.

### Issue(s) to be Decided

Are the landlords entitled to a monetary order for unpaid rent, or recompense for other monetary loss, pursuant to section 67 of the *Act*?

Are the landlords entitled to recover the filing fee for this Application pursuant to section 72 of the *Act*?

### Background and Evidence

The landlords submitted a copy of the tenancy agreement for this hearing and spoke to the terms which the tenant verified. The tenant signed the agreement on July 23, 2019; the

landlords signed on July 26, 2019. The tenancy started on August 1, 2019, for a fixed term ending on August 31, 2020.

The monthly rent was \$680 per month. The agreement specifies there is a monthly "\$50 rental of furniture [that] includes window blinds, a bed, desk and chair, two-tier clothing organizer, wall unit and personal set of kitchen utensils."

The agreement shows the tenant paid a security deposit of \$340. The agreement sets out that the deposit "is kept during the tenancy and repaid at the end of the tenancy agreement unless there is a breach of a material term of this Agreement."

The tenancy ended with the tenant giving their notice to end the tenancy. The landlords supplied this email of May 13, 2020 in which the tenant stated "Ideally, I will be out by the 15<sup>th</sup> of next month (June)". In the hearing the landlord stated that the tenant was unable to pay for the following month and wanted to delay.

According to the landlords, the tenant moved out their belongings on July 7, 2020; however, they gave their notice sometime in June. The landlord offered that the tenant should pay one-half the month of June, with the other half of that month's rent deducted from the security deposit. The landlords proposed to the tenant at that time that the tenant could sublet the unit in August. To this, according to the landlord, the "tenant said okay, but never paid."

The tenant provided their version of events in the hearing. They stated they gave their notice to end the tenancy on May 13; however, the landlord responded, "to say this couldn't work." To this, the tenant agreed to maintain the lease to June 15 and continued staying there. The tenant stated they paid up to the end of June, albeit with difficulties.

At the move-out inspection meeting, the parties discussed the situation and tried to come to some agreement. In the hearing, the tenant recounted how they were not comfortable with the "shifting terms of the agreement" – this was because they had already moved out. The tenant reached their own conclusion on things after the move-out meeting and sent an email on July 9<sup>th</sup>. That email gives their statement to the landlord: "I'd be happy to split the rent payments until a new tenant is found, provided that money is returned at that time. Once I receive the security deposit I'll arrange payments on my end."

The landlord followed up on this in the hearing by referring to the tenant's further email of July 21, 2020. In this email the tenant set out details: they gave 1.5 months' notice; they paid the full rent for June; they helped to find a new tenant; and they moved out on June 30.

The tenant's email also stated: "I said that I would not move forward with any payments until I received my security deposit." Further: "I do not feel comfortable further paying rent for a property I am no longer leasing from you" and: "I will no longer be paying rent nor will I be agreeing to any arrangement affiliated with the lease."

The tenant's position is summed up in a statement they provided in their evidence: "To clarify, I was not comfortable agreeing to any arrangements outside the lease, and I did everything necessary to properly terminate the rental agreement."

At the move-out inspection meeting, the parties discussed the situation and tried to come to some agreement. In the hearing the tenant provided they were not comfortable with "shifting terms of the agreement" – this was because they had already moved out. The tenant came to the conclusion after the meeting, and sent an email on July 9 to state they were not paying.

In the Application, the landlord's set out their claim as follows: "[They] did not pay rent for July and August. As indicated in [their] email of July 21<sup>st</sup>, he stated he had no intention of "paying rent" or "agreeing to any arrangement affiliated with the lease."

As set out in their Application, and described in the hearing, the landlord claims the 1.5 months' amount of rent: \$1,020. There is the amount for 2 months' furniture rental: \$100. The total amount of claim, to which the landlord wishes to offset the security deposit (\$340) amount, is \$1,120. In the hearing, the tenant stated they do not dispute this amount, and "it seems correct for July – August."

### 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 landlords, I accept the evidence before me that the tenant failed to pay full amounts owing. the tenant in the hearing verified the amount as presented by the landlords: \$1,120.

As such, I award the full amount of rent amounts owing to the landlords as they claimed in their Application. This award amount is \$1,120.

The *Act* section 72(2) gives an arbitrator the authority to make a deduction from the security deposit held by the landlords. The landlords have established a claim of \$1,120. After setting off the security deposit amount of \$340, there is a balance of \$780. I am authorizing the landlords to keep the security deposit amount and award the balance of \$780 as compensation for rent owing.

As the landlords 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 landlords a Monetary Order in the amount of \$880. The landlords are 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: December 7, 2020

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Residential Tenancy Branch