



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNR, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for an order of possession, for a monetary order for unpaid rent or utilities and to recover the cost of the filing fee.

This matter proceeded by way of the direct request proceedings. The adjudicator determined that this matter should be heard as a participatory hearing, which was scheduled before me on this day. The interim decision should be read in conjunction with this decision.

The landlords attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The landlord stated that they complied with the interim decision and the tenants were served with the required documents in person on October 14, 2020. I find the tenants were served in accordance with the Act.

The landlords gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

### Preliminary and Procedural matter

The landlords stated that the tenants vacated the premise on November 7, 2020 and they no longer require an order of possession.

The landlords stated that they would like to amend their application to include all unpaid rent that was accrued during the tenancy. As rent is the most basic term of all tenancy and the tenants received the outstanding rent ledger as of September 2, 2020, I find it reasonable to allow the amendment to include all unpaid rent for the tenancy.

The landlords further the request permission to retain the security deposit in partial satisfaction of the claim. I find that reasonable and I allow that amendment to their application.

### Issues to be Decided

Are the landlords entitled to a monetary order for unpaid rent?

Are the landlords entitled to retain the security deposit in partial satisfaction of the claim?

### Background and Evidence

The landlords testified that rent was originally \$2,300.00 per month. The landlords stated that the rent was reduced to \$2,100.00 during the tenancy. A security deposit of \$1,150.00 was paid. The tenancy ended on November 7, 2020, due to a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issue on September 2, 2020.

The landlords testified that the tenants were behind in the rent during the state of emergency between the period of April and August 2020, which totalled the amount of \$3,000.00.

The landlords testified that the tenants only paid the amount of \$280.00 towards September 2020, leaving a balance owed for September in the amount of \$1,820.00.

Filed in evidence is a rent ledger showing rent due and payments made by the tenants. This supports the landlords' testimony.

The landlords testified that the tenants did pay rent for October. The landlords stated the tenants remained in the rental unit on November 1, 2020 when rent was due and left on November 7, 2020, without paying any rent. The landlords stated they were able to find a new renter for part of November 2020. The landlords state they seek to recover rent for the time period of November 1 to 15<sup>th</sup>, 2020, in the prorated amount of \$1,050.00.

The landlords seek to recover unpaid rent in the total amount of \$5,870.00.

### Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

- 26** (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this 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.

I accept the undisputed evidence of landlords that the tenants failed to pay all rent owed as stated above. This is supported by the rent ledger. I find the tenants breached section 26 of the Act.

I further find that the amount claimed for November 2020, rent is reasonable. The tenants were living in the rental unit on the day rent was due. While in most cases the landlords would be entitled to the full rent for that month; however, in this case the landlords mitigate their loss as they found a new renter for a portion of this month.

Therefore, I find the landlords are entitled to recover unpaid rent from April 2020 to November 15, 2020, in the total amount of **\$5,870.00**.

I find that the landlords have established a total monetary claim of **\$5,970.00** comprised of unpaid rent, and the \$100.00 fee paid by the landlords for this application.

I order that the landlords retain the security deposit of **\$1,050.00** in partial satisfaction of the claim and I grant the landlords an order pursuant to section 67 of the Act, for the balance due of **\$4,820.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

### Conclusion<sup>1</sup>

The landlords are granted a monetary order and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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: December 18, 2020

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Residential Tenancy Branch