



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCL-S, MNDL-S, MNRL, FFL

### Introduction

On September 8, 2020, the Landlord made an Application for Dispute Resolution seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “*Act*”), seeking to apply the security deposit towards this debt pursuant to Section 38 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

On November 24, 2020, the Landlord made an Amendment to her Application seeking to increase the amount of monetary compensation being sought pursuant to Section 67 of the *Act*.

The Landlord attended the hearing with E.N. attending as an agent for the Landlord. The Tenant attended the hearing as well. All parties in attendance, except for E.K., provided a solemn affirmation.

E.K. advised that the Landlord served the Notice of Hearing package to the Tenant by registered mail on or around September 18, 2020. In addition, he advised that the Landlord served the Amendment and the Landlord’s evidence to the Tenant by registered mail on November 27, 2020. The Tenant confirmed receiving these packages from the Landlord. Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant received the Notice of Hearing, Amendment, and evidence packages. As such, I have accepted the Landlord’s evidence and will consider it when rendering this Decision.

The Tenant advised that she served her evidence to the Landlord by registered mail on December 7, 2020 and the Landlord confirmed receiving this package. Based on this undisputed evidence, I am satisfied that the Landlord received the Tenant’s evidence

package. As such, I have accepted the Tenant's evidence and will consider it when rendering this Decision.

All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order for compensation?
- Is the Landlord entitled to apply the security deposit towards this debt?
- Is the Landlord entitled to recover the filing fee?

#### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on September 1, 2019, that rent was established at an amount of \$1,650.00 per month, and that it was due on the first day of each month. A security deposit of \$825.00 was also paid. A signed copy of the tenancy agreement was submitted as documentary evidence.

They also agreed that the Tenant was given permission to sub-let the rental unit, but the sub-tenants were subsequently evicted by way of an Order of Possession (the relevant file number is noted on the first page of this Decision). The parties confirmed that the tenancy ended once the sub-tenants were forcibly removed from the rental unit by a bailiff on August 25, 2020.

#### Settlement Agreement

The possibility of a settlement was raised, pursuant to Section 63(1) of the *Act*, which allows an Arbitrator to assist the parties to settle the dispute. I explained to the parties that settlement discussions are voluntary, that if they chose not to discuss settlement I

would make a final and binding Decision on the matter, and that if they chose to discuss settlement and did not come to an agreement, that I would make a final and binding Decision on the matter.

I advised the parties that if they did come to an agreement, I would write out this agreement in my written Decision and make any necessary Orders. I also explained that the written Decision would become a final and legally binding agreement. The parties did not have questions about discussing a settlement when asked.

The parties engaged in a discussion on what would be an amenable settlement for both parties. The Landlord and the Tenant agreed as follows:

1. The Landlord is permitted to keep the security deposit in the amount of \$825.00.
2. The Landlord is granted a conditional Monetary Order in the amount of **\$3,800.00**.
3. The parties agreed that this monetary award will be paid by the Tenant to the Landlord in accordance with the following payment plan:
  - i. The Tenant must pay **\$422.22** on January 1, 2021.
  - ii. The Tenant must pay **\$422.22** on February 1, 2021.
  - iii. The Tenant must pay **\$422.22** on March 1, 2021.
  - iv. The Tenant must pay **\$422.22** on April 1, 2021.
  - v. The Tenant must pay **\$422.22** on May 1, 2021.
  - vi. The Tenant must pay **\$422.22** on June 1, 2021.
  - vii. The Tenant must pay **\$422.22** on July 1, 2021.
  - viii. The Tenant must pay **\$422.22** on August 1, 2021.
  - ix. The Tenant must pay **\$422.24** on September 1, 2021.
4. These payments must be made by electronic money transfer unless the parties agree to an alternate method of payment.

This settlement agreement was reached in accordance with Section 63 of the *Act*. The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that they understood the binding nature of this full and final settlement of these matters.

The Landlord will also be granted a conditional Monetary Order in the total monetary amount owed by the Tenant in the event that the Tenant does not pay these amounts in accordance with this settlement agreement. However, if the Tenant pays some or all of

the arrears, the Monetary Order will only be enforceable in the amount that remains outstanding.

### Conclusion

The parties reached a full and final settlement agreement in resolution of this dispute. I have recorded the terms of settlement in this Decision and in recognition of the settlement agreement, based on the above, I provide the Landlord with a conditional Monetary Order in the amount of **\$3,800.00** to serve and enforce upon the Tenant, if necessary. The Order must be served on the Tenant by the Landlord. 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. Only the amount remaining unpaid will be enforceable on the Tenant.

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 22, 2020

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Residential Tenancy Branch