



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL-S, MNDCL-S, FFL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for unpaid rent, utilities, and compensation under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 48 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The landlord stated that the tenant was served with the landlord's application for dispute resolution hearing package on September 20, 2020, by way of registered mail to the rental unit where the tenant was residing until October 2, 2020. The landlord provided a Canada Post receipt and confirmed the tracking number verbally during the hearing. In accordance with sections 89 and 90 of the *Act*, I find that tenant was deemed served with the landlord's application on September 25, 2020, five days after its registered mailing.

The landlord claimed that he did not serve his photographs of damage evidence to the tenant, that was uploaded to the Residential Tenancy Branch website on October 12, 2020. He said that he did not know where to serve the tenant, because the tenant did not give him a forwarding address, when she vacated the rental unit. I notified the landlord that I could not consider this evidence at the hearing or in my decision because it was not served to the tenant, as required. In any event, this evidence is irrelevant to the landlord's claims for unpaid rent and utilities, since the landlord did not apply for damages against the tenant.

### Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent and utilities?

Is the landlord entitled to recover the filing fee for this application?

### Background and Evidence

The landlord testified regarding the following facts. This tenancy began on September 1, 2018 and ended on October 2, 2020. Monthly rent in the amount of \$1,525.00 was payable on the first day of each month. A security deposit of \$725.00 was paid by the tenant and the landlord continues to retain this deposit. The rental unit is the upper level of a two-level house, where the landlord resides in a separate basement suite. A written tenancy agreement was signed by both parties and the landlord provided a copy of the latest one from September 2019. The landlord provided a copy of a signed addendum to the tenancy agreement, indicating that the tenant is required to pay 65% of the total utilities in the house.

The landlord seeks unpaid April 2020 rent of \$500.00, May to August 2020 rent of \$1,025.00 for each month, and September 2020 rent of \$1,525.00, for a total of \$6,125.00. The landlord also seeks to recover the \$100.00 filing fee paid for this application.

The landlord seeks 65% of the total unpaid gas and hydro utilities from February to September 2020, inclusive. The landlord provided a copy of all the gas and hydro invoices for the rental property. The landlord indicated that the total gas utilities are as follows for 2020: \$83.37 for February, \$75.12 for March, \$68.38 for April, \$38.83 for May, \$26.41 for June, \$28.23 for July, \$23.75 for August, and \$19.14 for September, for a total of \$363.23.

The landlord indicated that the total hydro utilities are as follows for 2020: \$174.87 for February, \$157.89 for April, \$183.40 for June, and \$173.24 for August, for a total of \$689.40. The landlord stated that the total for gas and hydro utilities are \$1,052.63, of which the landlord indicated the tenant owes a 65% share of \$684.21.

### Analysis

On a balance of probabilities and for the reasons stated below, I make the following findings based on the landlord's undisputed evidence.

Section 26 of the *Act* requires a tenant to pay rent when it is due under a tenancy agreement. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Regulation* or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

I award the landlord a total of \$6,125.00 for unpaid rent from April to September 2020, inclusive. I find that the tenant failed to pay this rent to the landlord, as indicated in the parties' written tenancy agreement, while the tenant was residing in the rental unit.

I award the landlord a total of \$684.21 for unpaid gas and hydro utilities from February to September 2020, inclusive. I find that the tenant failed to pay these utilities to the landlord, which is a 65% share of the total house utilities, as indicated in the parties' signed addendum to the tenancy agreement, while the tenant was residing in the rental unit.

The landlord continues to hold the tenant's security deposit of \$725.00. There is no interest payable on the deposit during the period of this tenancy. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's entire security deposit of \$725.00, in partial satisfaction of the monetary claim.

As the landlord was successful in this application, I find that he is entitled to recover the \$100.00 filing fee from the tenant.

### Conclusion

I order the landlord to retain the tenant's entire security deposit of \$725.00.

I issue a monetary Order in the landlord's favour in the amount of \$6,184.21. 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 *Residential Tenancy Act*.

Dated: January 04, 2021

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Residential Tenancy Branch