



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL FFL

### Introduction

This hearing was convened as a result of the landlords' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) for a monetary order for unpaid rent or utilities, and to recover the cost of the filing fee.

An agent for the landlords, PR (agent) and the landlords attended the teleconference hearing and gave affirmed testimony. During the hearing the agent and landlords were given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated November 3, 2020 (Notice of Hearing), application and documentary evidence were considered. The agent testified that the Notice of Hearing, application and documentary evidence were served on the tenants by registered mail via separate package for each tenant dated November 6, 2020 to the forwarding address the tenants provided verbally to the landlords on November 2, 2020. The two registered mail tracking numbers have been included on the style of cause for ease of reference.

According to the online Canada Post registered mail tracking website, the registered mail packages were both eventually returned to sender and marked as "unclaimed". Section 90 of the Act states that documents served by registered mail are deemed served 5 days after they are mailed. Therefore, I find the tenants were both deemed served as of November 11, 2020. Given the above, I find this application to be unopposed by the tenants as I find the tenants were deemed served and did not attend the hearing.

### Preliminary and Procedural Matters

The agent confirmed their email address and the email address for the landlords at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. The decision will be mailed to the forwarding address of the tenants provided under oath by the landlords by regular mail as the landlords did not have an email address for the tenants.

In addition to the above, the agent clarified that the landlords were no longer seeking the unpaid security deposit, as the tenancy ended on November 5, 2020, when the landlords entered the rental unit after written notice to do so, and determined the rental unit to be abandoned as of November 5, 2020. The agent stated that as a result, the landlords monetary claim is reduced to \$5,700.00 comprised of unpaid rent and the filing fee, which will be set out below in detail.

### Issues to be Decided

- Are the landlords entitled to a monetary order under the Act, and if so, in what amount?
- Are the landlords entitled to the recovery of the cost of the filing fee under the Act?

### Background and Evidence

The agent testified that a written tenancy agreement did not exist between the parties but that a verbal tenancy was formed, which began on June 1, 2020. The agent testified that monthly rent was \$1,550.00 per month and due on the first day of each month.

The landlords' monetary claim of \$5,700.00 is comprised as follows:

| ITEM DESCRIPTION                   | AMOUNT CLAIMED    |
|------------------------------------|-------------------|
| 1. Portion of July 2020 rent owing | \$950.00          |
| 2. August 2020 rent owing          | \$1,550.00        |
| 3. September 2020 rent owing       | \$1,550.00        |
| 4. October 2020 rent owing         | \$1,550.00        |
| 5. Filing fee                      | \$100.00          |
| <b>TOTAL</b>                       | <b>\$5,700.00</b> |

The agent testified to the information detailed in the table above. The agent also stated that while the landlords were able to secure to new tenants for December 2020, they are not seeking loss of rent for November 2020, just the total of \$5,700.00 described in the table above.

### Analysis

Based on the undisputed documentary evidence and the undisputed testimony of the agent and landlords provided during the hearing, and on the balance of probabilities, I find the following.

As the tenants were served with the Notice of Hearing, application and documentary evidence and did not attend the hearing, and as noted above, I consider this matter to be unopposed by the tenant. As a result, I find the landlords' application is fully successful in the amount of **\$5,700.00**, which includes the recovery of the cost of the filing fee pursuant to section 72 of the Act in the amount of \$100.00 as the landlords' application is fully successful.

Furthermore, I find the tenants breached section 26 of the Act by failing to pay rent as claimed by the landlords. I have reached this finding by considering the undisputed testimony before me. Given the above, I grant the landlords a monetary order pursuant to section 67 of the Act, for the amount owing by the tenants to the landlords of **\$5,700.00**.

**I caution** the tenants to comply with sections 26 of the Act in the future.

### Conclusion

The landlords' application is fully successful.

The landlords have been granted a monetary order pursuant to section 67 of the Act, in the amount owing of \$5,700.00. The landlords must serve the tenants with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

This decision will be emailed to the landlords and agent and sent by regular mail to the tenants as noted above.

The monetary order will be emailed to the landlords only for service on the tenants.

The tenants have been cautioned as noted above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: February 11, 2021

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Residential Tenancy Branch