



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, MNRL-S, OPN

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for an order of possession for unpaid rent, further to having served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent dated December 7, 2020; and a monetary order for unpaid rent in the amount of \$2,050.00; and an Order of Possession for a Tenant's Notice to End the Tenancy dated December 7, 2020.

The Tenant, K.K., and the Landlord, D.S., appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenant and the Landlord were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing. Further, Policy Guideline #43 states that "attendance at the hearing by a party may be viewed as an admission of service."

### Preliminary and Procedural Matters

The Landlord provided the Parties email addresses in the Application and they confirmed these addresses in the hearing. They also confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

During the hearing, the Landlord said that since both Tenants have moved out, he no

longer needs an order of possession for the rental unit. As such, I dismiss this claim from the Application without leave to reapply.

The Landlord also said that the amount of rent owing rose to \$4,100.00 from the \$2,050.00 he originally claimed in his December 2020 Application. The Landlord said the Tenant, S.J., stayed in the unit until the end of January 2021, but that he did not pay rent for that month, either. The Parties in the hearing agreed that the Tenant, K.K., moved out at the end of November 2019.

Accordingly, and pursuant to Rule 4.2 and section 64(3)(c) of the Act, I amend the Application for dispute resolution to correct the amount of the monetary order sought, reflecting the ongoing failure of the Tenant to pay his monthly rent owing. I find no prejudice to the Tenant, as he is aware of how much rent he has or has not paid, so he could have anticipated that the Landlord would claim reimbursement for the full amount of rent owing. Accordingly, I find it reasonable to amend the amount of the monetary order sought by the Landlords from the Tenant(s) from \$2,050.00 to \$4,100.00.

#### Issue(s) to be Decided

- Is the Landlord entitled to a monetary order, and if so, in what amount?

#### Background and Evidence

The Parties agreed that the fixed-term tenancy began on May 4, 2017 and was scheduled to run to May 4, 2021. They agreed that the Tenants paid the Landlords a monthly rent of \$2,050.00, due on the fourth day of each month. The Parties agreed that the Tenants paid the Landlords a security deposit of \$1,025.00, and a pet damage deposit of \$1,025.00, and that the Landlords still hold the deposits as of the hearing.

The Tenant said:

I believe that [D.S.] is in his right to ask for the money. My concern is that I should have been removed from the tenancy agreement when I moved away in November 2019, and that did not happen.

The Tenant confirmed that she did not request to be taken off the tenancy agreement by the Landlords. The Landlord said that he was aware that K.K. had moved out of the rental unit at the end of 2019, but that he did not know the exact date. He said that this was a little personal and between the Tenants.

The Landlord said that the Tenant, S.J., did not pay any rent for December 2020 or for January 2021, and that he moved out of the rental unit at the end of January 2021.

### Analysis

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

Section 26 of the Act states: “A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the regulation or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.” There is no evidence before me that the Tenants had a right to deduct any portion of the rent from the monthly rent due to the Landlords. Pursuant to section 26 of the Act, I award the Landlords a monetary order of **\$4,100.00** in recovering of the unpaid rent owing to them by the Tenants.

In terms of the Tenants named on the tenancy agreement, Policy Guideline #13 (“PG #13”) “Rights and Responsibilities of Co-tenants” helps clarify the rights and responsibilities relating to multiple tenants renting a rental unit under a single tenancy agreement. PG #13 includes the following:

#### **B. TENANTS AND CO-TENANTS**

A tenant is a person who has entered a tenancy agreement to rent a rental unit.... There may be more than one tenant; co-tenants are two or more tenants who rent the same rental unit or site under the same tenancy agreement.

Generally, co-tenants have equal rights under their agreement and are jointly and severally responsible for meeting its terms, unless the tenancy agreement states otherwise. “Jointly and severally” means that all co-tenants are responsible, both as one group and as individuals, for complying with the terms of the tenancy agreement.

#### **C. PAYMENT OF RENT**

Co-tenants are jointly and severally responsible for payment of rent when it is due. Example: If John and Susan sign a single tenancy agreement together as co-tenants to pay \$1800 dollars in rent per month, then John and Susan are both equally responsible to ensure that this amount is paid each month. If Susan is unable to pay her portion of the rent, John must pay the full amount. If he were to only pay his half of the rent to the landlord, the landlord could serve a 10 Day Notice to End Tenancy for Unpaid Rent and Utilities and evict both John and

Susan because the full amount of rent was not paid. The onus is on the tenants to ensure that the full amount of rent is paid when due.

#### **D. DEBTS OR DAMAGES**

Co-tenants are usually jointly and severally liable for any debts or damages relating to the tenancy, unless the tenancy agreement states otherwise. This means that the landlord can recover the full amount of rent, utilities or any damages owing from all or any one of the tenants. The co-tenants are responsible for dividing the amount owing to the landlord among themselves. For example, if John and Susan move out at the end of their tenancy, the landlord can make a claim for any damages to the property against either co-tenant, regardless of whether John was solely responsible for causing the damage.

If a dispute between Susan and John occurs over debts or damages related to their co-tenancy, the two would have to resolve the matter outside of the Residential Tenancy Branch. Disputes between co-tenants are not within the jurisdiction of the RTA nor the MHPTA and cannot be resolved through the Branch.

[emphasis added]

I find that this claim meets the criteria under section 72(2)(b) of the Act to be offset against the Tenants' security and pet damage deposits of \$1,025.00 each in partial satisfaction of the Landlords' monetary award. I authorize the Landlords to retain the Tenants' security and pet damage deposits of \$2,500.00 in partial satisfaction of the monetary award. I grant the Landlords a Monetary Order of \$2,500.00 for the remainder of the monetary award owing by the Tenants.

#### **Conclusion**

The Landlords' claim for compensation for unpaid rent against the Tenants is successful in the amount of \$4,100.00. The Landlords are authorized to retain the Tenants' security deposit of \$1,025.00, and their pet damage deposit of \$1,025.00 in partial satisfaction of their monetary award.

I grant the Landlords a Monetary Order under section 67 of the Act from the Tenants in the amount of **\$2,050.00** for the remainder of the award owing.

This Order must be served on the Tenants by the Landlord and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

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: March 08, 2021

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Residential Tenancy Branch