



# Dispute Resolution Services

Page: 1

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* (the Act) for:

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The landlord's counsel, T.C. (the landlord) attended the hearing via conference call and provided undisputed testimony. The landlord stated that the tenants were served via email on December 10, 2020 with the notice of hearing package and the submitted documentary evidence as per the order for substitute service granted on December 4, 2020 authorizing the landlord to serve the tenants via email. In support of the email service the landlord has submitted a copy of the email sent to the tenants dated December 10, 2020. I accept the undisputed evidence of the landlord and find that the tenants were properly served as per sections 88 and 89 of the Act.

Discussions with the landlord's counsel revealed that the \$8,800.00 monetary claim filed was in fact for:

\$4,050.00	Unpaid Rent, 3 Months (August-October 2020)
\$300.00	Unpaid Utilities, Hydro (May 1-October 27, 2020)
\$4,050.00	Loss of Rent, 3 Months (November-January 2021)
\$300.00	Cleaning Costs

\$8,800.00                      Total

The landlord confirmed that despite filing a claim for \$8,800.00, no details were provided on the monetary worksheet dated November 17, 2020 nor on the landlord's application for dispute regarding the loss of rent or cleaning costs. The landlord confirmed that an amendment to the application was not filed. On this basis, I find that the landlord has failed to properly file the monetary claim application and dismiss those portions not listed on the monetary worksheet nor detailed on the Landlord's Application for Dispute with leave to reapply. Leave to reapply is not an extension of any applicable limitation period. The hearing shall proceed on the landlord's monetary claim as detailed on the monetary worksheet dated November 17, 2020 for \$4,350.00.

#### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, for money owed or compensation and recovery of the filing fee?

Is the landlord entitled to retain all or part of the security deposit?

#### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on April 1, 2020 on a fixed term tenancy ending on March 31, 2021 and then thereafter on another fixed term or month-to-month basis as per the submitted copy of the signed tenancy agreement dated March 23, 2020. The monthly rent was \$1,350.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$675.00 was paid on March 23, 2020.

The landlord seeks a monetary claim of \$4,350.00 which consists of:

\$4,050.00	Unpaid Rent, August-October 2020 @ \$1,350/month
\$300.00	Unpaid Utilities, Hydro (May 1-October 27, 2020)

The landlord provided undisputed testimony that a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated September 2, 2020 was served to the tenant on September 2, 2020 by posting it to the rental unit door. The 10 Day Notice states that the tenants failed to pay rent of \$1,050.00 that was due on September 1, 2020 and the effective end of tenancy date is September 16, 2020. The landlord clarified that the 10

Day Notice was issued only in reference to the unpaid rent for September 2020, but that the tenant had also failed to pay any rent for August 2020 except for the \$300.00 direct rent subsidy payment. The landlord clarified that the tenant receives a partial rent subsidy of \$300.00 per month that is paid directly to the landlord from the ministry.

During the hearing the landlord corrected the monetary claim filed by stating that a partial rent subsidy of \$300.00 was paid for August and September of 2020, which would reduce the monetary claim by \$600.00. The landlord also stated that there was no tenants' ledger to detail the tenants' account. The landlord confirmed that no rent subsidy was paid on behalf of the tenant for October 2020.

The landlord also stated that the tenants failed to pay utilities for hydro costs of \$300.00 for the period May 1 to October 27, 2020. No invoices/bills were provided. The landlord stated that a telephone call was made to the utility provider who gave the outstanding balance due for the period May 1 – October 27, 2020 of \$300.00.

The landlord's monetary claim was clarified in that:

\$3,450.00	Unpaid Rent,	
	\$1,050.00	August 2020
	\$1,050.00	September 2020
	\$1,350.00	October 2020
\$300.00	Unpaid Utilities, Hydro (May 1-October 27, 2020)	
\$3,750.00	Total	

The landlord confirmed these monetary claim details and stated that no other rent payments were made.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has

been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the undisputed evidence of the landlord and find on a balance of probabilities that the landlord has established a claim for \$3,750.00 as listed above in the landlord's clarified monetary claim total for unpaid rent and utilities. The landlord provided undisputed testimony that the tenant only partially paid the rent for August and September of 2020 and no rent was paid for October 2020. The landlord stated that an order of possession was issued on October 27, 2020 and the landlord took possession of the rental unit on October 29, 2020.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee. I authorize the landlord to retain the \$675.00 security deposit in partial satisfaction of the claim.

### Conclusion

The landlord is granted a monetary order for \$3,175.00.

This order must be served upon the tenants. Should the tenants fail to comply with this order, the 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: March 15, 2021

---

Residential Tenancy Branch