



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding IMH POOL XVI LP, METCAP LIVING MANAGEMENT  
INC. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR-PP, MNRL-S, MNDCL-S, FFL

### Introduction

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

- an order of possession for unpaid rent pursuant to section 55;
- 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 its filing fee for this application from the tenant pursuant to section 72.

The landlord's agent, Z.L. (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony.

The landlord was advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on March 10, 2021.

At the outset, the landlord stated that the tenant had vacated the rental unit on February 28, 2021 and as such withdrawn the request for an order of possession as it is no longer required. The hearing proceeded on the landlord's monetary claim.

I accept the undisputed affirmed evidence of the landlord and find that the tenant has been properly served as per sections 88 and 89 of the Act. Despite not attending the tenant is deemed served as per section 90 of the Act.

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.

The landlord seeks a monetary claim of \$6,013.00 which consists of unpaid rent for the period July 2020 to February 2021 and recovery of the \$100.00 filing fee.

The landlord confirmed that the tenant vacated the rental unit on February 28, 2021. The landlord relied upon the submitted evidence file "Ledger\_R.R." which shows a balance owing of \$6,013.00 as of February 4, 2021. The landlord stated that consent from the tenant was obtained to offset arrears with the \$936.50. As such, the request for authorization to retain all or part of the security deposit is no longer required. The landlord stated that the \$6,013.00 arrears were offset with the \$936.50 security deposit leaving total arrears as of the date of this hearing as \$5,176.50. This consists of:

\$5,076.50	Unpaid Rent Arrears
\$100.00	Filing Fee
\$5,176.50	Total

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.

In this case, I accept the undisputed affirmed evidence of the landlord and find that the tenant vacated the rental unit on February 28, 2021 with outstanding rental arrears totalling \$5,913.00. The landlord provided undisputed affirmed evidence that the tenant consented to using the \$936.50 security deposit against the known rental arrears. On this basis, the tenant owes \$5,076.50 in rental arrears.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee.

### Conclusion

The landlord is granted a monetary order for \$5,176.50.

This order must be served upon the tenant. Should the tenant 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: May 17, 2021

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Residential Tenancy Branch