



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL, MNDL, MNDCL, FFL

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution filed under the *Residential Tenancy Act* (the "Act") made on December 30, 2020. The Landlord applied for a monetary order for unpaid rent, for a monetary order for compensation for damage caused by the tenant, their pets or guests to the unit, site or property, for a monetary order for compensation for my monetary loss or other money owed and to recover the filing fee paid for the application. The matter was set for a conference call.

The Landlord's Agent (the "Landlord") and the Tenant attended the hearing and were each affirmed to be truthful in their testimony. Both the Tenant and the Landlord were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing. Both parties were advised of section 6.11 of the Residential Tenancy Branches Rules of Procedure, prohibiting the recording of these proceedings.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary Matter – *Claim Items Withdrawn*

At the outset of this hearing, the Landlord testified that they were withdrawing their claims for a monetary order for compensation for damage caused by the tenant, their pets or guests to the unit, and site or property, for a monetary order for compensation for my monetary loss or other money owed.

I will proceed in this hearing on the Landlord's remaining claims for a monetary order for unpaid rent and to recover the filing fee paid for the application.

Preliminary Matter - *Tenant Cautioned*

During the hearing, the Tenant was cautioned several times regarding personal conduct and interruption of these proceedings.

Both the parties to this dispute were advised of the expected appropriate conduct during these proceedings.

Additionally, the Tenant became confrontational and aggressive with this Arbitrator when the Tenant was advised that their claims for compensation could not be heard in these proceedings. The Tenant was informed that they are required to file their own dispute resolution application with the Residential Tenancy Branch for a hearing regarding their claims and that they could not be heard in these proceedings scheduled for the Landlord's dispute resolution application.

When the Tenant continued to interrupt these proceedings and insist that their claims be heard, their phone line was muted for the last 3 minutes of these proceedings in order for this Arbitrator to render their final decision and directions without further interruption.

Issues to be Decided

- Is the Landlord entitled to a monetary order for rent?
- Is the Landlord entitled to a monetary order for compensation for damage caused by the tenant, their pets or guests to the unit, site, or property?
- Is the Landlord entitled to a monetary order monetary loss or other money owed?
- Is the Landlord entitled to the return for their filing fee for this application?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The tenancy agreement records that the tenancy began on August 1, 2020, as a ten-month fixed term tenancy agreement. That rent in the amount of \$4,000.00 was to be paid by the first day of each month. The tenancy agreement recorded that the Landlord had been given a \$2,000.00 security deposit and a \$2,000.00 pet damage deposit at the

outset of this tenancy. The Landlord submitted a copy of the tenancy agreement into documentary evidence.

The Landlord testified that without written notice the Tenant moved out of the rental unit on December 31, 2020.

The Landlords testified that the Tenant had a history of paying rent late for this tenancy, that they had paid the October and November 2020, in late November 2020, only after being served with a 10-Day notice for nonpayment of rent. The Landlord also testified that the Tenant had not paid the rent for December at all of this tenancy. The Landlord is requesting a monetary order for the outstanding rent for December 2020.

The Tenant testified that they had paid the rent for October by cheque, but they think the Landlord must have lost that cheque as it had not cleared their bank account, and that they had paid \$8000.00 in rent at the end of November for the November and December rent for this tenancy.

The Landlord testified that they had not received a rent cheque from the Tenant for October 2020 but agreed that the Tenant had paid \$8,000.00 in rent at the end of November 2020. The Landlord testified that the November payment was applied to the outstanding rent of October and November 2020, and that the December rent remains outstanding for this tenancy.

### Analysis

Based on the evidence before me, the testimony of these parties, and on a balance of probabilities that:

Section 26(1) of the *Act* states that a tenant must pay the rent when it is due under the tenancy agreement.

#### ***Rules about payment and non-payment of rent***

**26 (1)** *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

**(2)** *A landlord must provide a tenant with a receipt for rent paid in cash.*

*(3) Whether or not a tenant pays rent in accordance with the tenancy agreement, a landlord must not*

*(a) seize any personal property of the tenant, or*

*(b) prevent or interfere with the tenant's access to the tenant's personal property.*

*(4) Subsection (3) (a) does not apply if*

*(a) the landlord has a court order authorizing the action, or*

*(b) the tenant has abandoned the rental unit and the landlord complies with the regulations.*

In this case, I accept the testimony of the Landlord, supported by their documentary evidence, that the rent for December 2020 remains outstanding for this tenancy, in the amount of \$4,000.00. I find that the Tenant breached section 26 of the *Act* when they did not pay the rent as required under the tenancy agreement.

Therefore, I find that the Landlord has established an entitlement to a monetary award in the amount of \$4,000.00 for the unpaid rent for December 2020. I grant the Landlord permission to retain the \$2,000.00 security deposit and \$2,000.00 pet damage deposit they are holding for this tenancy in full satisfaction of this award.

Section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord has been successful in their application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this hearing, and I grant the Landlord a monetary order for this amount.

Conclusion

I find for the Landlord under sections 67 and 72 of the Act. I grant the Landlord a **Monetary Order** in the amount of **\$100.00**. The Landlord is provided with this Order in the above terms, and the Tenant must be served with this Order as soon as possible. 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: May 19, 2021

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Residential Tenancy Branch