



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CHILCO HOLDINGS LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNRL FFL

### Introduction

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

- A monetary award for damages and loss pursuant to section 67; and
- Authorization to recover their filing fee from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agent AK (the "landlord").

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

The landlord confirmed receipt of the tenant's evidentiary materials. The tenant confirmed receipt of the landlord's application and evidence but disputed that they were served with a copy of the tenancy agreement. I do not find the tenant's submission disputing a piece of evidence that was included in the evidence package to be credible or believable. I further note that the documentary evidence the tenant disputes is a tenancy agreement signed by the tenant themselves which would reasonably have been received on prior occasions. I find that the tenant's disputing service of one piece of evidence from the package to have little air of reality.

Based on the above I find that both parties have been served with the respective materials in accordance with sections 88 and 89 of the Act and in any event sufficiently served in accordance with section 71. I find little prejudice to consider the tenancy

agreement signed by the tenant which would reasonably have been received on a prior occasion.

Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to recover their filing fee from the tenant?

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 arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree on the following facts. This periodic tenancy began in 2018. The landlord assumed this tenancy when they purchased the rental property in November 2020. The current monthly rent is \$666.25 payable on the first of each month. The tenant deducted \$65.45 from their monthly rent payments for the months of November and December 2020 and January 2021.

A copy of the tenancy agreement signed by the previous landlord and the tenant dated February 22, 2020 was submitted into evidence. That tenancy agreement provides that Cablevision utilities is not included in the monthly rent.

The tenant submits that notwithstanding what the signed tenancy agreement states they believe that Cablevision is included in the rent and they deducted the amount of \$65.45 from their rent payments for a period of 3 months after the Cablevision service was discontinued. The tenant submitted into evidence a copy of correspondence from the Cablevision provider stating that the service was provided under a bulk agreement with the landlord but is being discontinued as of November 30, 2020.

The landlord submits that there is an arrear of \$196.35 for the unauthorized underpayments for those months and seeks a monetary award.

### 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.

It is evident on the face of the signed tenancy agreement that Cablevision is not included in the monthly rent amount of \$666.25. I find no evidence that there was an agreement that Cablevision would be provided or that it was included in the monthly rent. In fact, the tenancy agreement expressly allows for parties to check off the box next to Cablevision if they intended for it to be included in the rent. The parties did not do so, instead indicating that such items as Water and Garbage collection as the services included in the rent.

The tenant submits that Cablevision was included but has provided no documentary evidence to support this position. When asked why the tenancy agreement they signed does not provide that Cablevision is included the tenant had no cogent response and stated that they did not recall signing a tenancy agreement.

I find insufficient evidence to support the tenant's position that Cablevision was included in the rent or that there was any agreement, implied or express, that provides that the tenant was entitled to Cablevision services. Consequently, I find no basis for the tenant's unilateral deduction from the monthly rent.

I accept that there is an enforceable tenancy agreement between the parties wherein the tenant is obligated to pay rent in the amount of \$666.25 on the first of each month. I accept the evidence of the parties that the tenant failed to pay rent as required and that there is an arrear of \$169.35 as at the date of the hearing. Accordingly, I find the landlord is entitled to a monetary award in that amount.

As the landlord was successful in their application they are also entitled to recover the filing fee from the tenant.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$296.35. 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: June 7, 2021

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Residential Tenancy Branch