



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL, MNDCL, FFL

### Introduction

On February 26, 2021, the Landlord applied for a Dispute Resolution proceeding seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing; however, the Tenant did not attend at any point during the 20-minute teleconference. At the outset of the hearing, I informed the Landlord that recording of the hearing was prohibited and she was reminded to refrain from doing so. She acknowledged this term. As well, she provided a solemn affirmation.

She advised that the Notice of Hearing and evidence package was served to the Tenant by registered mail on March 9, 2021 (the registered mail tracking number is noted on the first page of this Decision). She referenced an email dated March 2, 2021, that was submitted as documentary evidence, and it is her position that the Tenant still occupied the rental unit as his vehicle was still parked there on that day. Moreover, she advised that she received vacant possession of the rental unit after bailiffs enforced a Writ of Possession and physically removed the Tenant on March 23, 2021.

Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant still lived in the rental unit and was thus deemed to have received the Landlord’s Notice of Hearing and evidence package five days after it was mailed out. As such, I have accepted this evidence and will consider it when rendering this Decision

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order for compensation?
- Is the Landlord entitled to recover the filing fee?

#### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord advised that the tenancy started on November 1, 2020 and ended on March 23, 2021 when the Tenant was physically removed by the bailiffs. Rent was established at \$1,830.00 per month and was due on the first day of each month. A security deposit of \$915.00 was also paid. A copy of the signed tenancy agreement was submitted as documentary evidence.

The Landlord advised that she is seeking compensation in the amount of **\$1,830.00** because the Tenant did not pay March 2021 rent and was forcibly removed from the rental unit by bailiffs on March 23, 2021.

The Landlord advised that she is seeking compensation in the amount of **\$7.50** for the insufficient funds bank fee due to the Tenant's January 2021 rent being unpaid. She referenced the term in the tenancy agreement which permits her to claim this amount. As well, she cited a screenshot, submitted as documentary evidence, to support this claim.

The Landlord advised that she is also seeking compensation in the amounts of **\$25.00** for a late payment of rent fee for each month of January, February, and March 2021. She stated that the Tenant stopped paying rent in January 2021 and she previously received an Order of Possession and Monetary Order due to the unpaid of rent. The

Monetary Order was for the amounts of January and February 2021 rent. She referenced the term in the tenancy agreement which permits her to claim these amounts.

Finally, the Landlord advised that she is also seeking compensation in the amounts of **\$54.50** for the cost of utilities for November 2020 and **\$151.33** for the cost of utilities for December 2020 and January 2021. She referenced the tenancy agreement which indicated that the Tenant was responsible for the utilities. She stated that at the start of the tenancy, the Tenant informed her that he did not want to open a new utility account, so he would pay her for the utilities instead. However, he did not do so. She cited the utility bills, that were submitted as documentary evidence, to support the cost of the utilities owed.

### Analysis

Upon consideration of the testimony before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

With respect to the Landlord's claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, "It is up to the party who is claiming compensation to provide evidence to establish that compensation is due", that "the party who suffered the damage or loss can prove the amount of or value of the damage or loss", and that "the value of the damage or loss is established by the evidence provided."

Regarding the Landlord's claim for lost rent in the amount of \$1,830.00, the undisputed evidence is that the parties entered into a fixed term tenancy agreement from November 1, 2020 for a period of one year, yet the tenancy effectively ended when the Tenant was forced to give up vacant possession of the rental unit on March 23, 2021 by a bailiff due to unpaid rent. Furthermore, the consistent and undisputed evidence is that the Tenant did not pay March 2021 rent either. As such, I grant the Landlord a monetary award in the amount of **\$1,830.00** to satisfy the Landlord's claim for rent owing for the month of March 2021.

With respect to the Landlord's claims for compensation in the amounts of \$7.50 for the insufficient funds bank fee and \$25.00 for the late payment of rent fee for each month of January, February, and March 2021, the consistent and undisputed evidence is that the Landlord was permitted to charge these fees as per the tenancy agreement. Moreover, the term in the tenancy agreement pertaining to these fees complies with Section 7 of the *Residential Tenancy Regulation*. As the Tenant did not pay rent for these months, I grant the Landlord a monetary award in the amount of **\$82.50** to satisfy these debts.

Finally, regarding the Landlord's claims for compensation in the amounts of \$54.50 and \$151.33 for the cost of utilities owed, the consistent and undisputed evidence before me is that the Tenant was responsible for the utilities and that he failed to pay them. As such, I grant the Landlord a monetary award in the amount of **\$205.83** to rectify these claims.

As the Landlord was successful in these claims, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this Application.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlord a Monetary Order as follows:

**Calculation of total Monetary Award Payable by the Tenant to the Landlord**

Rent for March 2021	\$1,830.00
NSF charge for January 2021 rent	\$7.50
Late payment of rent fee for January 2021	\$25.00
Late payment of rent fee for February 2021	\$25.00
Late payment of rent fee for March 2021	\$25.00
BC Hydro for November 2020	\$54.50
BC Hydro for December 2020 and January 2021	\$151.33
Filing fee	\$100.00
<b>TOTAL MONETARY AWARD</b>	<b>\$2,218.33</b>

Conclusion

The Landlord is provided with a Monetary Order in the amount of **\$2,218.33** 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: July 16, 2021

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Residential Tenancy Branch