



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Darwin Property Management  
Ltd. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNRL-S, FFL

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order for unpaid rent in the amount of \$33,915.00; and to recover the \$100.00 cost of their Application filing fee.

An agent for the Landlord, D.W. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Tenant. The teleconference phone line remained open for over 15 minutes and was monitored throughout this time. The only person to call into the hearing was the Agent, who indicated that he was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Agent.

I explained the hearing process to the Agent and gave him an opportunity to ask questions about the hearing process. During the hearing the Agent was given the opportunity to provide his evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Tenant did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act and Rule 3.1 state that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Agent testified that he served the Tenant with the Landlord's Notice of Hearing documents and evidence by email sent on April 22, 2021. The Agent said he also posted these documents on the door.

The Agent said that they had an ongoing email and text communications with the Tenant until he moved out in early April 2021. I find that the Tenant was deemed served with the Landlord's Notice of Hearing documents and evidence in accordance with the Act. I, therefore, admitted the Application and evidentiary documents, and I continued to hear from the Agent in the absence of the Tenant.

### Preliminary and Procedural Matters

The Agent provided the Parties' email addresses in the Application and he confirmed these addresses in the hearing. He also confirmed his understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

### Issue(s) to be Decided

- Is the Landlord entitled to a monetary order, and if so, in what amount?
- Is the Landlord entitled to recovery of the Application filing fee?

### Background and Evidence

The tenancy agreement states, and the Agent confirmed in the hearing that the periodic tenancy began on July 16, 2017, and that the Tenant paid the Landlord a monthly rent of \$1,785.00, due on the first day of each month. The tenancy agreement states that the Tenant paid the Landlord a security deposit of \$485.00, and no pet damage deposit.

The Agent said that the Tenant lived in the rental unit when the Landlord bought the residential property. At one point, the Landlord changed from accepting rent cheques to using pre-authorized deposits (or PAD) from Tenants; however, the Landlord determined that the Tenant has not been paying rent, as they had nothing in their banking records to indicate such payments. The Agent said that when they asked the Tenant about the rent payments, he insisted that he had paid his rent to the new Landlord, and that he could provide bank statements to prove it; however, the Tenant never provided this information to the Landlord.

The Agent said that they tried to communicate with the Tenant about discussing a payment plan or a settlement of some kind, but the Tenant stopped responding to the Landlord. In early April, the Landlord learned that the Tenant's patio furniture was no longer there. As a result, they served the Tenant with Notice to Inspect the rental unit. Upon inspecting the rental unit, they learned that the Tenant and his possessions were

gone. The Agent said that the resident manager never saw any sign of the Tenant moving during the day; therefore, they presumed he had left in the middle of the night.

The Agent told me that the Tenant had not paid the Landlord any rent for 19 months – from October 2019 through to April 2021. As a result, the Agent said that the Tenant owes the Landlord \$33,915.00.

The Landlord submitted banking records indicating the amount of rent the Tenant was supposed to pay, as well as noting that the rent cheques were returned for insufficient funds in March and April 2021.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Section 26 of the Act states: “A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the 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.” There is no evidence before me that the Tenant had a right to deduct any portion of the rent from the monthly rent due to the Landlord.

Based on the undisputed evidence before me, I find on a balance of probabilities that the Tenant owes the Landlord \$33,915.00 in unpaid rent. I, therefore, award the Landlord with **\$33,915.00** from the Tenant for recovery of unpaid rent pursuant to sections 26 and 67 of the Act. Given their success in the Application, I also award the Landlord with recovery of their **\$100.00** Application filing fee from the Tenant, pursuant to section 72 of the Act.

I authorize the Landlord to retain the Tenant’s **\$485.00** security deposit in partial satisfaction of these awards, pursuant to section 72 of the Act. I grant the Landlord a Monetary Order from the Tenant for the remaining amount owing of **\$33,530.00**, pursuant to sections 67 and 72 of the Act.

### Conclusion

The Landlord is successful in this Application, as they provided sufficient evidence to establish that the Tenant has not paid rent in 19 months and that he owes them \$33,915.00 in unpaid rent. The Landlord is also awarded \$100.00 from the Tenant for

reimbursement of the Application filing fee for this proceeding. The Landlord is authorized to retain the Landlord's **\$485.00** security deposit in partial satisfaction of the awards.

I grant the Landlord a Monetary Order of **\$33,530.00** for the remainder owing to the Landlord from the Tenant.

This Order must be served on the Landlord by the Tenant and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: October 15, 2021

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Residential Tenancy Branch