



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPU, 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 and utilities 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 tenants' security deposit (the deposit) in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover their filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 9:40 a.m. in order to enable them to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord's agent gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package were sent to both tenants by registered mail on July 17, 2021. The landlord entered into written evidence copies of the Canada Post Tracking Numbers, showing that his hearing packages sent to the tenants by Registered Mail. In accordance with sections 89 and 90 of the *Act*, I am satisfied that both tenants were deemed served with the landlord's dispute resolution hearing packages on July 22, 2021; five days after mailing.

### Preliminary Issue – Order of Possession

At the outset of the hearing, the agent advised that the tenants moved out in late July and that the landlord has taken back possession of the unit, accordingly; I dismiss this portion of the landlord's application.

### Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and utilities?

Is the landlord entitled to retain all or a portion of the tenants' deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

The landlord's agent gave the following undisputed testimony. The tenancy began on or about July 5, 2020. Rent in the amount of \$1450.00 is payable in advance on the 5<sup>th</sup> day of each month. The tenants are responsible for 100% of the utilities. The tenants failed to pay rent in the month(s) of June 2021 and on June 7, 2021 the landlord served the tenant with a notice to end tenancy. The tenants further failed to pay rent in the month(s) July 2021. The landlord advised that as of today's hearing the amount of unpaid rent is \$2900.00 and \$211.46 in unpaid utilities.

### Analysis

The tenants failed to pay their rent in full within five days of being deemed to have received the 10 Day Notice. The tenants have not made application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the corrected effective date of the notice. The landlord's agent advised that the tenants moved out in late July 2021.

Based on the undisputed evidence provided by the landlords' agent, I am satisfied that the tenants continue to owe the landlord unpaid rent and utilities in the amount of \$3111.46. The landlord is also entitled to the recovery of the \$100.00 filing fee for a total award of \$3211.46. Using the offsetting provision under Section 72 of the *Act*, I hereby apply the \$725.00 security deposit against the amount of unpaid rent.

### Conclusion

The landlord has established a claim for \$3211.46. I order that the landlord retain the \$725.00 security deposit in partial satisfaction of the claim, and I grant the landlord an

order under section 67 for the balance due of \$2486.46. This order may be filed in the Small Claims 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: October 21, 2021

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Residential Tenancy Branch