



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNR, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the “Act”), for a monetary order for unpaid rent, and to recover the cost of the filing fee.

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent by email to the email address that the parties have used throughout the tenancy. The landlord stated that on April 21, 2021, was the last email correspondence they had with the tenant and the tenant stated that they could not afford to make payment on the rent owed. Filed in evidence is a copy of the email to the tenant showing that the hearing documents were attached. I find the tenant was served in accordance with section 89(1)(f) of the Act.

Section 44 of the Residential Tenancy Branch Regulations determines that a document served in this manner is deemed to have been served three days later. I find that the tenant has been duly served in accordance with the Act.

The landlord appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issue to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

### Background and Evidence

The tenancy began on August 1, 2019. Rent in the amount of \$2,400.00 was payable on the first of each month. The tenant paid a security deposit of \$1,200.00. The tenancy ended on August 31, 2020.

The landlord testified that the tenant was in rent arrears of \$9,200.00 as shown in the rent arrears table. The landlord stated that the security deposit of \$1,200.00 was applied to the amount paid in the repayment plan to offset the amount owed. Filed in evidence is a copy of the RTB repayment form which show the rent owed, rent paid and the offset with the security deposit. The below is reproduction of a portion of the repayment plan.

Rent arrears table:			
Month	A Due Date	B Amount Due	C Amount Paid
1	04/01/2020	+ \$ 2,400.00	+ \$ 300.00
2	05/01/2020	+ \$ 2,400.00	+ \$ 300.00
3	06/01/2020	+ \$ 2,400.00	+ \$ 300.00
4	07/01/2020	+ \$ 2,350.00	+ \$ 300.00
5	08/01/2020	+ \$ 2,350.00	+ \$ 300.00
6	08/29/2020	+	+ \$ 1,200.00
7		+	+
8		+	+

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Rent arrears table:			
Month	A Due Date	B Amount Due	C Amount Paid
9		+	+
10		+	+
11		+	+
12		= \$ 11,900.00	= \$ 2,700.00
13	Enter the total amount from Column B		\$ 11,900.00
14	Enter the total amount from Column C -		\$ 2,700.00
15	line 13 minus line 14: =		\$ 9,200.00
Part 2: Repayment Schedule			

The landlord stated that they presented the RTB repayment plan to the tenant on August 29, 2020, which the tenant was to pay \$920.00 per month. The landlord stated on September 29, 2020 the tenant paid the amount of \$920.00 and on February 2, 2021 the tenant paid the amount of \$200.00, which reduced the rent owed from \$9,200.00 to \$8,080.00. The landlord seeks to recover the rent owed in the amount of \$8,080.00.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation, or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Rules about payment and non-payment of rent are defined in Part 2 of the Act.

### **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.*

...

I accept the undisputed evidence that the tenant failed to pay the rent as shown in the above table. I accept the undisputed evidence of the landlord that the tenant has only made two payments towards the arrears since the repayment plan was issue. I find the tenant breached section 26 of the Act, when they failed to pay the rent when due under the terms of their tenancy agreement and when they did not comply with the repayment

scheduled. I find the landlord is entitled to recover unpaid rent in the total amount of **\$8,080.00**.

I find that the landlord has established a total monetary claim of **\$8,180.00** comprised of the above described amount and the \$100.00 fee paid for this application. As the security deposit was offset with rent owed in the repayment plan, which I find reasonable; I do not need to consider that matter. I grant the landlord a formal monetary order under section 67 of the Act. I authorize the landlord permission to serve the above order by email to the email address of the tenant.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

### Conclusion

The landlord is granted a monetary order in the above noted amount.

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 27, 2021

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Residential Tenancy Branch