



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      **MNR-DR, OPR-DR, FFL**

### **Introduction**

This matter proceeded by way of an ex parte Direct Request Proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the Act), and dealt with an Application for Dispute Resolution by the Landlord to obtain an order of possession based on unpaid rent, to obtain monetary compensation for unpaid rent, and to recover the filing fee paid for the application.

On September 2, 2021, the Adjudicator determined this matter should be adjourned to a participatory hearing. The Ex Parte Proceeding Decision should be read in conjunction with this Decision.

The landlord's agent stated that they complied with the interim decision and served the tenant with the required documents on September 3, 2021. I find the tenant was served on September 3, 2021.

The landlord's agent stated that the tenancy ended on October 21, 2021, as they had received an order of possession, which was enforced by the bailiffs. The landlords seek to recover the unpaid rent.

### **Issue to be Decided**

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

### **Background and Evidence**

The parties agreed that the tenancy began on September 25, 2020. Rent in the amount of \$2,600.00 was payable on the first of each month. The tenant paid a security deposit of \$1,300.00. The tenancy ended on October 21, 2021.

The landlord's agent testified that the tenant failed to pay rent for June, July, August, September, and October 2021. The landlord seeks a monetary order for the unpaid rent in the amount of \$13,000.00.

### 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 testimony of the landlord that the tenant has failed to pay rent for the 5 months indicated above. I find the tenant has breached section 26 of the Act and the landlord has suffered a loss. Therefore, I find the landlord is entitled to recover unpaid rent in the total amount of **\$13,000.00**.

I find that the landlord has established a total monetary claim of **\$13,100.00** comprised of the above described amount and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$1,300.00** security deposit in partial satisfaction of the claim, and I grant the landlord an order under section 67 of the Act for the balance due of **\$11,800.00**.

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 and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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: December 20, 2021

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Residential Tenancy Branch