



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL-S, FFL

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a Monetary Order for unpaid rent, pursuant to sections 26 and 67; and
- authorization to recover the filing fee from the tenants, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:43 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord was advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. The landlord testified that he was not recording this dispute resolution hearing.

Per section 95(3) of the *Act*, the parties may be fined up to \$5,000.00 if they record this hearing: "A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5 000."

The landlord confirmed his email addresses for service of this decision and order.

### Preliminary Issue- Service

The landlord testified that he served the tenant via registered mail in March of 2022. The landlord provided the tracking number for the above registered mailing, the tracking number is located on the cover page of this decision.

The landlord testified the above package was received by the tenant on March 21, 2022. The landlord testified that he knows the package was delivered on March 21, 2022 because he has a delivery confirmation receipt stating same.

Based on the landlord's undisputed testimony and the Canada Post registered mail tracking number provided in the hearing, I find that the tenant was deemed served with the landlord's application for dispute resolution, in accordance with section 89 and 90 of the *Act*.

### Issues to be Decided

1. Is the landlord entitled to a Monetary Order for unpaid rent, pursuant to sections 26 and 67 of the *Act*?
2. Is the landlord entitled to recover the filing fee from the tenant, pursuant to section 72 of the *Act*?

### Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the landlord, not all details of the landlord's submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord provided the following undisputed testimony. This tenancy began on April 1, 2015 and ended on November 30, 2020. Monthly rent in the amount of \$1,590.00 was payable on the first day of each month. A security deposit of \$775.00 was paid by the tenant to the landlord. The landlord did not return any portion of the security deposit to the tenant. A written tenancy agreement was signed by both parties and a copy was submitted for this application.

The landlord testified that the tenant failed to pay all rent owing between April and November 2020. The landlord testified that the tenant owes \$3,580.00 in unpaid rent.

The landlord entered into evidence a rent ledger which states:

<b>Date</b>	<b>Rent Due</b>	<b>Rent Paid</b>	<b>Monthly Outstanding Rent</b>
April 2020	\$1,590.00	\$750.00	\$840.00
May 2020	\$1,590.00	\$1,400.00	\$190.00
June 2020	\$1,590.00	\$1,400.00	\$190.00
July 2020	\$1,590.00	\$0.00	\$1,590.00
August 2020	\$1,590.00	\$1,590.00	\$0.00
September 2020	\$1,590.00	\$0.00	\$1,590.00
October 2020	\$1,590.00	\$0.00	\$1,590.00
November 2020	\$1,590.00	\$0.00	\$1,590.00
December 18, 2020	\$0.00	\$2,000.00	N/A
February 9, 2021	\$0.00	\$2,000.00	N/A
<b>Total Rent Outstanding</b>			<b>\$3,580.00</b>

The landlord testified that the tenant did not provide him with a forwarding address and that he tracked down the tenant to serve him with this application for dispute resolution.

### Analysis

Section 26(1) of the *Act* states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this *Act*.

Residential Tenancy Branch Policy Guideline 52 states:

If the tenancy has ended and the landlord wants to pursue an amount of unpaid affected rent, the landlord does not have to give the tenant a repayment plan.  
The landlord may apply to the RTB for a monetary order

“Affected rent” is rent that becomes due to be paid by a tenant in accordance with a tenancy agreement during the “specified period” between March 18, 2020 and August 17, 2020.

I accept the undisputed testimony of the landlord's agent that the tenant owes the landlord \$3,580.00 in unpaid rent. As this tenancy has ended, I find that the landlord is entitled to recover the entirety of outstanding rent owed by the tenant, including "affected rent".

Section 38(1) of the *Act* states that within 15 days after the later of:

- (a) the date the tenancy ends, and
  - (b) the date the landlord receives the tenant's forwarding address in writing,
- the landlord must do one of the following:
- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
  - (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

I accept the landlord's undisputed testimony that the tenant did not provide the landlord with a forwarding address. I find that the landlord made an application for dispute resolution claiming against the security deposit pursuant to section 38(1) of the *Act*.

Section 72(2) of the *Act* states that if the director orders a tenant to make a payment to the landlord, the amount may be deducted from any security deposit or pet damage deposit due to the tenant. I find that the landlord is entitled to retain the tenant's security deposit in the amount of \$775.00.

As the landlord was successful in this application for dispute resolution, I find that the landlord is entitled to recover the \$100.00 filing fee from the tenant, pursuant to section 72 of the *Act*.

### Conclusion

I issue a Monetary Order to the landlord under the following terms:

Item	Amount
Unpaid rent	\$3,580.00
Filing Fee	\$100.00

Less security deposit	-\$775.00
<b>TOTAL</b>	<b>\$2,905.00</b>

The landlord is provided with this Order 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: November 08, 2022

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Residential Tenancy Branch