



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **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 utilities pursuant to section 67;
- authorization to recover the filing fee for this application pursuant to section 72.

This application was originally heard by way of a Direct Request Proceeding and on August 30, 2022, an interim decision was issued adjourning the application to be reconvened at a participatory hearing.

The hearing was conducted by conference call. The tenants did not attend this hearing, although I waited until 1:50 p.m. to enable the tenants to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord and agent attended the hearing and was given a full opportunity to provide affirmed testimony, present evidence and make submissions.

The landlord testified that on September 3, 2022, a copy of the Application for Dispute Resolution including the Notice of Hearing and Interim Decision was sent to the tenants by registered mail. The landlord provided registered mail receipts and tracking numbers in support of service.

Based on the above evidence, I am satisfied that the tenants were deemed served with the Application for Dispute Resolution, Notice of Hearing and Interim Decision pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenants.

Preliminary Issue – Amendment to Landlord's Application

Paragraph 64(3)(c) of the Act allows me to amend an application for dispute resolution.

At the hearing, the landlord testified that the tenants vacated the rental unit in mid-October 2022; therefore, the landlord was no longer seeking an order of possession. The landlord also requested to amend his claim to include outstanding rent for the period of February 2022 through to the end of September 2022. Although the tenant did not have prior notice of this claim, I find that the tenants should reasonably have known that the landlord would suffer this loss if the tenants neither paid rent nor vacated the rental unit. I therefore allowed the landlord's request for an amendment.

Issues

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

Background and Evidence

The tenancy began on December 17, 2020. The monthly rent for the period relevant to this dispute was \$2000.00 payable on the 1<sup>st</sup> day of each month. The tenancy agreement also required the tenants to pay for utilities. The tenants paid a security deposit of \$600.00 at the start of the tenancy which the landlord continues to hold.

The landlord submitted a copy of a 10 Day Notice dated January 17, 2022. The 10 Day Notice indicates an outstanding rent amount of \$8000.00 plus \$837.26 for utilities which was due on January 1, 2022.

The landlord testified the outstanding rent and utilities as per the 10 Day Notice was not paid in full and the tenant only paid an amount of \$2000.00 for October 2021 rent. The landlord testified the utilities were also not paid as required by the tenancy agreement. The landlord submitted copies of the unpaid utilities bills.

The landlord's amended monetary claim is for outstanding rent and utilities in the amount of \$24,837.26. The landlord testified that this includes unpaid rent as per below:

Item	Amount
September 2021	2000.00

November 2021	2000.00
December 2021	2000.00
January 2022	2000.00
February 2022	2000.00
March 2022	2000.00
April 2022	2000.00
May 2022	2000.00
June 2022	2000.00
July 2022	2000.00
August 2022	2000.00
September 2022	2000.00
Utilities (March 2021 to December 2021)	837.26
<b>Total Unpaid rent:</b>	<b>\$24,837.26</b>

### Analysis

Section 26 of the Act requires that 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 landlord's uncontested testimony and evidence and claim for outstanding rent and utilities in the total amount of \$24,837.26.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$24,937.26.

The landlord continues to hold a security deposit of \$600.00. Although the landlord's application does not seek to retain the security deposit, using the offsetting provisions of section 72 of the Act, I allow the landlord to retain the security deposit in partial satisfaction of the monetary award.

Therefore, I find that the landlord is entitled to a Monetary Order in the amount of \$24,337.26.

Conclusion

I grant the landlord a Monetary Order in the amount of \$24,337.26. Should the tenants 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 15, 2022

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Residential Tenancy Branch