



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

**Dispute Codes**      MNRL-S FFL

### **Introduction**

This dispute relates to a landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for the following:

1. \$1,800 for unpaid rent,
2. Retain security deposit and pet damage deposit towards rent owing,
3. \$100 filing fee.

The landlord attended the teleconference hearing and gave affirmed testimony. During the hearing the landlord was given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated November 14, 2022 (Notice of Hearing), application and documentary evidence (Hearing Package) were considered. The landlord testified that the Hearing Package was served on the tenant by registered mail on November 15, 2022. The registered mail tracking number is RN 594 049 729 CA. According to the Canada Post registered mail tracking website the tenant signed for and accepted the registered mail package on November 20, 2022. The Hearing Package was addressed to the tenant's forwarding address provided by text, according to the landlord.

Based on the above, I find that the tenant was sufficiently served on November 20, 2022, which is the date the tenant signed for and accepted the Hearing Package. Residential Tenancy Branch (RTB) Rule 7.3 of the Rules of Procedure (Rules) applies and states the following:

### **Rule 7.3 Consequences of not attending the hearing**

The arbitrator may conduct the hearing in the absence of a party or dismiss the application, with or without leave to re-apply.

Based on the above, I find this matter to be unopposed by the tenant and the hearing continued without the tenant present.

#### Preliminary and Procedural Matter

The landlord confirmed the email addresses for both parties. The decision will be emailed to both parties.

#### Issues to be Decided

- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?
- What should happen to the tenant's security deposit and pet damage deposit under the Act?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

#### Background and Evidence

A copy of the tenancy agreement was submitted. A fixed-term tenancy began on July 1, 2022 and was scheduled to convert to a month-to-month tenancy after July 1, 2023. Monthly rent was \$1,800 per month and due on the first day of each month. The tenant paid a \$900 security deposit and a \$900 pet damage deposit (\$1,800 in combined deposits), which the landlord continues to hold.

The landlord confirmed they served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated October 5, 2022 (10 Day Notice) both personally and on the tenant's door on October 5, 2022. The tenant did not dispute the 10 Day Notice or pay the \$1,800 listed as owing as of October 1, 2022. The effective vacancy date was listed as October 19, 2022. The landlord testified that the tenant vacated in the middle of October 2022.

The landlord is seeking \$1,800 for unpaid October 2022 rent plus the \$100 filing fee. The landlord has also requested to offset the money owed with the tenant's combined deposits of \$1,800.

### Analysis

Based on the undisputed documentary evidence and the undisputed testimony of the landlord provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant was served with the Hearing Package and did not attend the hearing, I consider this matter to be unopposed by the tenant. Section 26 of the Act applies and states:

#### **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.

[emphasis added]

Based on the above, I find the tenant breached section 26 of the Act by failing to pay rent of \$1,800 on October 1, 2022. As a result, I find the landlord's application is fully successful in the amount of **\$1,900**; comprised of \$1,800 in October 2022 rent, plus the \$100 filing fee under section 72 of the Act.

Pursuant to section 38 of the Act, as the as the landlord continues to hold the tenant's combined deposits of \$1,800, which have accrued \$11.06 interest to date, I grant the landlord authorization to retain the tenant's full \$1,811.06 combined deposits including interest, to offset the \$1,900 amount owing. I grant the landlord a monetary order pursuant to section 67 of the Act, for the balance owing by the tenant to the landlord in the amount of **\$88.94**.

**I caution** the tenant not to breach section 26 of the Act in the future.

### Conclusion

The landlord's application is fully successful.

The landlord has established a total monetary claim of \$1,900 as described above. The landlord has been authorized to retain the tenant's full combined deposits of \$1,811.06, which includes interest, in partial satisfaction of the landlord's monetary claim. The landlord has been granted a monetary order pursuant to section 67 of the Act, for the

balance owing by the tenant to the landlord in the amount of \$88.94. If the landlord would like to enforce the monetary order, they must first serve the tenant with the monetary order and then may enforce the monetary order in the British Columbia Provincial Court, Small Claims Division.

The tenant has been cautioned as described above.

This decision will be sent by email to both parties. The monetary order will be sent by email the landlord only for service on the tenant, if necessary.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 25, 2023

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Residential Tenancy Branch