



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, OPC

### Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord under the *Residential Tenancy Act* (the “Act”), for a Monetary Order for unpaid rent and for an Order of Possession.

The hearing was convened by telephone conference call and was attended by the agent for the Landlord (the “Agent”), who provided affirmed testimony. The Tenant did not attend. The Agent was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the respondent must be served with a copy of the Application and Notice of Hearing. As the Tenant did not attend the hearing, I inquired with the Agent regarding service of the documents as explained below.

In the hearing the Agent testified that the Application, the Notice Hearing, and the evidence were personally served on an adult who resides with the Tenant, the Tenant’s daughter, on September 22, 2017.

Based on the above, I am satisfied that the Tenant was served these documents on September 22, 2017, the date that the Application, the Notice of Hearing, and the Landlord’s evidence package was personally served on an adult who resides with the Tenant.

At the request of the Agent, copies of the decision and any applicable Orders will be e-mailed to them at the address provided on their Application.

### Preliminary Matters

At the outset of the hearing the Agent testified that the Tenant vacated the rental unit on October 31, 2017. As a result, the Agent withdrew their Application for an Order of Possession. The Agent also requested to amend their Application to include additional unpaid rent owing since they filed their Application and the retention of the Tenant's security deposit to offset any unpaid rent. The Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure") state under section 4.2, that the Application may be amended at the hearing in circumstances that can reasonably be anticipated. As a result, the Application was amended in the hearing to include additional rent owing and retention of the security deposit to offset outstanding rent in accordance with the *Act* and the Rules of Procedure.

### Issue(s) to be Decided

Is the Landlord entitled to a Monetary Order for unpaid rent pursuant to section 67 of the *Act*?

### Background and Evidence

The Agent testified that the tenancy began May 1, 2006, as a one year fixed-term tenancy and that a series of rent increases have occurred over the course of the tenancy. The Agent testified that at the time the Tenant's vacated the rental unit, rent was currently \$795.00 a month, which was due on the first day of each month. The Agent testified that the Tenant moved out of the rental unit on October 31, 2017, and that as of the date of the hearing, they owe \$2,360.00 in outstanding rent.

The Agent testified that a security deposit was paid by the Tenant to the previous property management agency at the start of the tenancy; however, they do not know what the original security deposit amount was. However, the Agent testified that the Tenant and the previous property management agency used portions of the security deposit paid by the Tenant to pay off outstanding rent, and that as of the date of the hearing, \$197.50 remains of the security deposit.

### Analysis

I accept the Agent's undisputed testimony that as of the date the Tenant vacated the rental unit, rent in the amount of \$2,360.00 remained unpaid. Pursuant to section 72 of the *Act*, I authorize the Landlord to retain the remaining \$197.50 of the Tenant's security

deposit, in full, to offset this amount and grant the Landlord \$100.00 for the recovery of the filing fee. As a result, I find that the Landlord is entitled to a Monetary Order in the amount of \$2,262.50; \$2,162.00 for the balance of rent owed, plus \$100.00 for the recovery of the filing fee.

### Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$2,262.50. 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 29, 2017

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Residential Tenancy Branch