



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR MNSD FF

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held on December 18, 2020. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for unpaid rent or utilities;
- permission to retain the security deposit to offset the rent owed; and,
- to recover the filing fee from the Tenant for the cost of this application.

The Landlord and the Tenant both attended the hearing. The Tenant confirmed receipt of the Landlord's application and evidence package and did not take issue with service. I find the Landlord sufficiently served the hearing documents, and evidence. The Landlord confirmed receipt of the Tenants' evidence package, and did not take issue with service.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent or utilities?

### Background and Evidence

Both parties agree that monthly rent is \$3,700.00, and is due on the 15<sup>th</sup> of the month, even though the tenancy agreement lists the 1<sup>st</sup> of the month. Both parties also agree that the Landlords still hold a security deposit in the amount of \$1,850.00. The Tenants still reside in the rental unit, although they are planning on moving.

The relationship between the parties has degraded significantly over the last few months. The Landlords explained that since COVID-19 (starting around April 2020), the Tenants have fallen behind on rent. More specifically, the Landlords stated that the Tenants only paid \$500.00 (government rent subsidy paid directly to the Landlords) for April, May, and June 2020, leaving \$3,200.00 unpaid for April – June (3 x \$3,200.00 = \$9,600.00).

The Tenants do not refute that they owe this amount. The parties have had several email conversations about the overdue rent, which began in April. However, the Landlord has not given any formal Repayment Plan in accordance with the regulations. The Landlord stated the Tenant has taken no initiative to repay the overdue rent.

### Analysis

Based on the testimony and documentary evidence, and on a balance of probabilities, I find as follows:

Section 26 of the *Act* confirms that a Tenant must pay rent when it is due unless the Tenant has a right under the *Act* to deduct all or a portion of rent (security deposit overpayment, emergency repairs paid for by the Tenant, illegal rent increases, or another Order by an Arbitrator).

I note the Landlords filed this application to recover unpaid “affected rent” (which is defined as rent that became due between March 18, 2020, until August 17, 2020.) I note the Landlords filed this application on September 8, 2020.

Further, I note the Landlord has not given the Tenants any formal or proper repayment agreement, in compliance with the regulations. I note the following portion of the ***Policy Guideline #52 - COVID-19: Repayment Plans and Related Measures:***

***F. APPLICATIONS FOR MONETARY ORDERS FOR UNPAID AFFECTED RENT MADE ON OR AFTER JULY 31, 2020***

*If no valid repayment plan has been given to a tenant, or a valid repayment plan has been given to a tenant or a landlord and tenant have a valid prior agreement in place and the tenant is in good standing because:*

- *the first payment has not come due, or*
- *the tenant is paying the installments as required,*

*then an arbitrator may dismiss the application with leave to reapply, until such time as the tenancy ends and/or the tenant has failed to pay, at least, one installment.*

Given the Landlord has not given the Tenants a valid repayment plan, in compliance with the C19 Tenancy Regulation, I dismiss the claim, with leave to reapply. I encourage the Landlord to read Policy Guideline #52, and specifically the section titled repayment plans. A repayment plan is not required for a tenancy that has ended. However, since the tenancy is still active, the Landlord should issue a repayment plan in accordance with the regulations.

Since the Landlord was not successful with this application, I decline to award the recovery of the filing fee.

Conclusion

The Landlords' application is dismissed, with leave to reapply.

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 18, 2020

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Residential Tenancy Branch