



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Royal LePage Wolstencroft Realty  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      **MNRL, MNDCL, FFL**

### Introduction

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

- A monetary award for unpaid rent, damages and loss pursuant to section 67; and
- Authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The corporate landlord was represented by their agent (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served the tenant with the notice of application and evidence by email on November 24, 2020 and subsequently by registered mail on December 1, 2020. The landlord submitted copies of the email sent to the tenant and a valid Canada Post tracking receipt as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials on December 6, 2020, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act* and in any event sufficiently served in accordance with section 71 of the *Act*.

### Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to recover their filing fee from the tenant?

### Background and Evidence

The landlord gave undisputed testimony regarding the following facts. The monthly rent for this periodic tenancy was \$889.00.

There was a previous hearing under the file number on the first page of this decision. The landlord was granted a monetary award for unpaid rent and late fees owing of \$4,560.00 as at the date of the earlier hearing, May 19, 2020 and authorized to hold the security deposit for this tenancy. The landlord was also issued an Order of Possession effective 2 days after service on the tenant.

The landlord testified that since the earlier decision the tenant continued to reside in the rental unit and there is a further rental arrear of \$2,652.00 as at the date of the hearing, March 11, 2021. The landlord submitted copies of a ledger showing the amounts payable under the tenancy agreement.

The landlord submits that the tenant refused to vacate the property in accordance with the Order of Possession and the landlord incurred costs to retain bailiff services to remove the tenant. The landlord submitted into evidence an invoice from court bailiff services showing a balance of \$3,759.82.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the undisputed evidence of the landlord that there is a rental arrear for this tenancy of \$2,652.00. I am satisfied with the testimony of the landlord supported in their documentary materials including the written tenancy agreement and tenant ledger. Accordingly, I issue a monetary award in the landlord's favour for that amount.

I accept the evidence that the landlord incurred costs to enforce their Order of Possession due to the tenant's refusal to comply with the Act and provide vacant

possession. I accept the evidence that the total amount of the costs incurred due to the tenant's breach is \$3,759.82. I therefore issue a monetary award in the landlord's favour for that amount.

As the landlord was successful in their application they are also entitled to recover the filing fee from the tenant.

### Conclusion

I issue a monetary order in the landlord's favour in the amount of \$6,511.82 allowing for recovery of the rental arrear and costs of enforcing the Order of Possession, as well as recovering the filing fee for the applicaiton. 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: March 11, 2021

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Residential Tenancy Branch