



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BLACKSTAR 900 CARNARVON APARTMENTS C/O TRIBE  
MGMT and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** OPR, MNRL-S, MNDL, MNDCL-S, FFL

### **Introduction**

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

- an Order of Possession for non-payment of rent pursuant to section 55;
- a monetary order for unpaid rent,, money owed or compensation for monetary loss or money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 1:40 p.m. in order to enable the tenants to call into this teleconference hearing scheduled for 1:30 p.m. The landlord's agents, MM, and FM ("landlord"), attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord's agents and I were the only ones who had called into this teleconference.

Pursuant to Rule 6.11 of the RTB Rules of Procedure, the Residential Tenancy Branch's teleconference system automatically records audio for all dispute resolution hearings. In accordance with Rule 6.11, persons are still prohibited from recording dispute resolution hearings themselves; this includes any audio, photographic, video or digital recording. All parties confirmed that they understood.

The landlord's agents testified that the tenants were originally sent the hearing documents by way of registered mail on September 9, 2022 to the rental address. The landlord discovered that the tenants had abandoned the rental unit sometime on or about October 21, 2022. The landlords subsequently applied for a substituted service

order as the tenants did not provided a forwarding address. Pursuant to section 71(1) of the *Residential Tenancy Act*, the landlord was granted a substituted service order on December 23, 2022 to serve the tenants the Notice of Dispute Resolution Proceeding and any supporting documents and evidence by way of email as set out in the order. The landlord testified that both tenants were served all hearing documents, including the landlord's amendment package, and the original hearing documents, by way of email on December 25, 2022. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenants deemed served with the landlord's application, amendments and evidence on December 28, 2022, 3 days after the documents were emailed.

As the tenants have moved out, and the landlord no longer requires an Order of Possession, this portion of the landlord's application was cancelled. The hearing proceeded to hear the remaining claims.

### **Issue(s) to be Decided**

Is the landlord entitled to monetary compensation for unpaid rent, money owed or losses?

Is the landlord entitled to recover the filing fee for this application from the tenants?

### **Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began on September 4, 2020. Monthly rent was set at \$1,625.01, payable on the first of every month. The landlord collected, and still holds, a security deposit in the amount of \$800.50. The tenants also paid \$80.00 for monthly parking. The landlord discovered that the tenants had abandoned the rental unit sometime around October 21, 2022, after the landlords had originally filed this application on August 22, 2022 for an Order of Possession and Monetary Order for unpaid rent.

The landlord is seeking the following monetary orders:

<b>Item</b>	<b>Amount</b>
Unpaid Rent, November 2020-October 2022	\$11,460.10

Unpaid parking fees, November 2020-October 2022	1,920.00
Late Fees, November 2020-October 2022 (\$25.00 per month)	600.00
Unpaid utility bills	657.92
Electrical repairs	404.58
Blind repairs	357.00
Cooktop replacement	862.97
Murphy bed repairs	130.00
Garbage removal	262.50
Key replacement	200.00
Wall repairs & painting	850.50
Suite Cleaning	845.25
Filing Fee	100.00
<b>Total Monetary Order Requested</b>	<b>\$18,550.82</b>

The landlord testified that since filing this application, the tenants have not paid any rent, nor the monthly parking fee. The tenants have also failed to pay the outstanding utilities and accrued late fee of \$25.00 per month. The landlord is requesting a monetary order for this money owed.

The landlord submits that the tenants abandoned the suite, and failed to leave the suite in reasonably clean and undamaged condition. The landlord submitted detailed evidence in support of their claim for the losses associated with this tenancy, including the move-in and move-out inspection reports, photos of the suite, as well as attached invoices.

### **Analysis**

**Section 26** of the Act, in part, states as follows:

#### ***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.*

I find that the tenants were obligated to pay the rent and utilities as per the tenancy agreement and the Act. I find the landlord provided undisputed evidence to support that

the tenants have not paid the outstanding rent and utility bill for this tenancy, nor did they have an order from an Arbitrator allowing them to deduct all or a portion of the rent or utilities, nor do I find that the tenants had a right under the Act to deduct or withhold all or portion of the rent or utilities. I allow the landlord a monetary order to recover the unpaid rent, parking fees, and utilities. I note that the tenancy agreement contains a clause that stipulates that a non-refundable fee of \$25.00 be applied for each late payment, which is in accordance with RTB Regulation. Accordingly, I allow the landlord to recover the late fees for this tenancy.

Section 37(2)(a) of the *Act* stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged condition except for reasonable wear and tear. I have reviewed the landlord's monetary claim for damages, and I find that the evidence clearly shows that the tenants abandoned the rental unit, and failed to leave the rental unit in reasonably clean and undamaged condition. As shown by the condition inspection report and photos, the tenants left a significant amount of belongings and damage behind. The tenants also failed to clean the rental unit. I find that these losses are supported by invoices. On the other hand, the tenants did not submit an evidence refuting these claims. Accordingly, I allow the landlord their claims for losses related to the abandonment of the rental unit.

I find that the landlord's Application has merit and that the landlord is entitled to recover the fee for filing this Application.

In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenants' security deposit in partial satisfaction of the monetary claim.

### **Conclusion**

I issue a Monetary Order in the amount of \$5,934.57 in the landlord's favour under the following terms which allows a monetary award for money owed, damage and losses caused by the tenants and allows the landlord to retain the security deposit. The landlord is also authorized to recover \$100.00 for the filing fee.

<b>Item</b>	<b>Amount</b>
Unpaid Rent, November 2020-October 2022	\$11,460.10
Unpaid parking fees, November 2020-October 2022	1,920.00
Late Fees, November 2020-October 2022 (\$25.00 per month)	600.00

Unpaid utility bills	657.92
Electrical repairs	404.58
Blind repairs	357.00
Cooktop replacement	862.97
Murphy bed repairs	130.00
Garbage removal	262.50
Key replacement	200.00
Wall repairs & painting	850.50
Suite Cleaning	845.25
Filing Fee	100.00
Less Security Deposit Held	-800.50
<b>Total Monetary Order</b>	<b>\$17,750.32</b>

The landlord is provided with this Order in the above terms and the tenants must be served with a copy of this Order as soon as possible. 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: January 18, 2023

---

Residential Tenancy Branch