



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Decision

Dispute Codes: MND, MNR, MNDC, MNSD, FF

### Introduction

This hearing dealt with the landlord's application for a Monetary Order for damage to the rental unit or property, unpaid rent, damage or loss under the Act, regulations or tenancy agreement, retention of the security deposit and recovery of the filing fee. The tenant did not appear at the hearing. The landlord provided a registered mail receipt as evidence that the tenant was notified of the hearing by registered mail. The landlord testified that the registered mail was sent to the tenant's forwarding address. I was satisfied that the landlord notified the tenant of today's hearing in accordance with the requirements of the Act and proceeded with the hearing without the tenant present.

### Issues:

1. Have the landlord established an entitlement to compensation for damages to the rental unit, and if so, the amount?
2. Has the landlord established an entitlement to unpaid rent?
3. Has the landlord established an entitlement to damages or loss under the Act, regulations or tenancy agreement?
4. Retention of the security deposit.
5. Award of the filing fee.

### Background

Upon hearing undisputed testimony and review of the tenancy agreement, I make the following findings. The one-year fixed term tenancy commenced June 1, 2008 and

ended on December 2, 2008 when the tenant vacated the rental unit. The tenant was required to pay rent of \$825.00 on the 1<sup>st</sup> day of every month. The tenant is responsible for paying for hydro, garbage and cable. The tenant had paid a \$400.00 security deposit on May 15, 2008. The rental unit consisted of exclusive use of an 880 sq. ft. apartment with a workshop downstairs, a two car carport with a sundeck above the carport.

The landlord testified that the tenant only paid rent of \$425.00 for October 2008 and did not pay rent for November or December 2008. The landlord also testified that the tenant took down a wall separating the kitchen from living area and left behind property that the landlord has put in storage. In making this claim, the landlord is seeking compensation for unpaid rent for October, November and December 2008, less retention of the security deposit; \$225.00 for hydro; and, \$600.00 for time and materials to replace the wall and clean up the property left behind by the tenant. As evidence for the hearing, the landlord provided several photographs of the rental unit and the property, a record of the time and money spent by the landlord and an assistant to place the wall and clean up the rental unit, a document depicting hydro readings for September 6, 2008 to November 5, 2008, a letter from the tenant acknowledging that the tenant intended to pay the landlord what she owed him, and copies of cancelled rent cheques. The landlord requested compensation for labour at the rate of \$15.00 per hour. The landlord did not provide copies of receipts for the purchase of materials for the wall replacement or subsequent hydro readings.

### Findings and Analysis

Where a party makes a claim for compensation, the party must be able to show the following:

1. Proof that the damage or loss exists,

2. Proof that this damage or loss happened solely because of the actions or neglect of the Respondent,
3. Verification of the actual monetary amounts to compensate for the claimed loss or to rectify the damage.

Based upon the evidence before me, the landlord has satisfied me that he is entitled to recover unpaid rent of \$400.00 for October 2008, \$825.00 for November 2008 and \$825.00 for December 2008. The landlord is authorized to retain the tenant's security deposit and accrued interest in satisfaction of the rent owed to the landlord.

Based on the documentation provided to me, I am satisfied that the tenant failed to pay \$129.09 for hydro consumption and I award that amount to the landlord. Insufficient documentation was provided to support the landlord's claims that the tenant owed \$225.00 for hydro.

The landlord also satisfied me that 47 hours were spent replacing the wall the tenant removed and cleaning up the items left behind by the tenant. I approve of the landlord's request for compensation for those hours at the rate of \$15 per hour for an award of \$705.00. In the absence of receipts or other sufficient evidence, I find that the landlord failed to verify the quantum of the claim made for construction materials and I do not award the landlord that portion of his claim.

Since the landlord was largely successful in this application, I award the landlord the filing fee. In light of the above findings, I provide the landlord with a Monetary Order calculated as follows:

Unpaid rent – October 2008	\$ 400.00
Unpaid rent – November 2008	825.00
Unpaid rent – December 2008	825.00
Hydro	129.09
Labour for wall replacement and clean-up	705.00
Less: security deposit and interest	<u>(403.79)</u>
Monetary Order	<u>\$ 2,480.30</u>

The landlord must serve the Monetary Order upon the tenant and may enforce it by filing it in the Provincial Court (Small Claims).

### Conclusion

The landlord is authorized to retain the tenant's security deposit and accrued interest in partial satisfaction of the rent owed to the landlord. The landlord is also provided a Monetary Order in the amount of \$2,480.30.

March 31, 2009

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Date of Decision

\_\_\_\_\_  
Dispute Resolution Officer