



# 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, 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 evidence that the tenant was served with notification of the hearing and the landlord's evidence by registered mail sent to the tenant's forwarding address. The registered mail was unclaimed by the tenant. Upon review of the evidence provided, I was satisfied that the landlord served the tenant in accordance with the requirements of the Act and proceeded with the hearing without the tenant present.

### Issues:

1. Has the landlord established that the tenant damaged the rental unit and if so, an entitlement to compensation?
2. Has the landlord established an entitlement to unpaid rent and utilities?
3. Retention of the security deposit.
4. Award of the filing fee.

### Background

From the evidence provided to me, I make the following findings. The tenancy commenced November 11, 2008. The tenant vacated the rental unit December 29, 2008. The tenant was required to pay rent of \$1,295.00 on the 1<sup>st</sup> day of every month.

The tenant had paid a security deposit and a pet deposit in the amount of \$647.50 each on November 11, 2008. A move-in inspection was performed by the parties on November 12, 2008 and a move-out inspection was performed by the parties on January 16, 2009. The tenant provided a forwarding address on the move-out inspection report.

The landlord testified that on December 10, 2008 the tenant gave notice that she would probably be ending the tenancy December 15, 2008; however, the tenant did not vacate until December 29, 2008. The landlord claimed that the tenant damaged a wall with a chair; however, the landlord did not provide a receipt to substantiate \$100.00 was paid for the repair to the wall. The landlord provided a tenancy agreement as evidence for the hearing. The tenancy agreement provides that the rent does not include utilities. The landlord testified that the tenant was required to pay the landlord 20% of the utility bills. The landlord amended her claim to request compensation in the reduced amounts of:

Loss of rent for January 2009	\$ 1,295.00
Unpaid Terasen bills	70.77
Unpaid hydro bill	28.64
Damage to wall	100.00

The landlord is requesting retention of the tenant's security deposit and pet deposit in partial satisfaction of the above amounts.

#### Findings and Analysis

Where a party makes a monetary claim against another party, the party making the claim has the onus to prove 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, I am satisfied that the landlord has established an entitlement to recover the loss of rent incurred for the month of January 2009 in the amount of \$1,295.00. I was not satisfied that the landlord is entitled to recover 20% of the utility bills from the tenant as the tenancy agreement does not provide for such recovery from the tenant. I do not approve the landlord's claim for wall damage as the landlord did not provide sufficient evidence that the landlord incurred a loss of \$100.00 to repair the wall.

As the landlord was partially successful with this application, I award the filing fee to the landlord. I find the landlord applied to retain the tenant's security deposit within 15 days of receiving the tenant's forwarding address in writing, as evidenced by the move-out inspection report dated January 16, 2009. Therefore, I authorize the landlord to retain the tenant's security deposit and pet deposit, plus accrued interest, in partial satisfaction of the awards to the landlord.

In light of the above findings, I provide the landlord with a Monetary Order calculated as follows:

Loss of rent – January 2009	\$ 1,295.00
Filing fee	50.00
Less: security deposit and interest	(648.85)
Less: pet deposit and interest	<u>(648.85)</u>
Monetary Order	<u>\$ 47.30</u>

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

Conclusion

The landlord is authorized to retain the tenant's security deposit and pet deposit, plus accrued interest. The landlord is also provided with a Monetary Order in the amount of \$47.30.

April 1, 2009

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Date of Decision

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Dispute Resolution Officer