



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation for damage and loss – Section 67;
2. An Order to retain all or part of the security deposit; and
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not attend the Hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy began on October 1, 2011 for a fixed term to December 30, 2011. Rent in the amount of \$650.00 was payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$300.00 and a key deposit in the amount of \$100.00. A move-in inspection was conducted with the Tenant and the condition report was filed as evidence for this application. The Tenant failed to pay rent for November 2011 and moved out of the unit on November 14, 2011 following the Landlord’s service of a 10 day Notice to end tenancy for non payment of rent. The effective move out date on the notice was

November 13, 2011. A move-out inspection report was completed and filed as evidence for this application.

The Landlord advertised the unit for rent commencing November 8, 2011 but was unable to find a new tenant. The Landlord claims **\$625.00** for unpaid rent and a late fee for November 2011 and **\$600.00** for lost rental income for December 2011.

The Tenant left the unit with damages to a balcony door, a carpet burn and broken drape rod. The Landlord claims the amount of **\$768.00** to repair these damages. The Tenant failed to completely clean the unit and the Landlord claims the amount of **\$20.00** for the cost of this cleaning.

During the tenancy, the Landlord received several complaints from other tenants about loud noise and parties coming from the Tenant's unit and states that as a result of this noise, one tenant left with no notice and no payment of rent for November 2011. The Landlord provided a letter from this tenant and it is noted that this letter is undated, unsigned and does not identify this tenant's unit. This tenant's rent was \$490.00 and the Landlord claims a loss of two months' rent in the amount of **\$980.00**.

A second tenant also left the unit due to noise of the Tenant however this tenant paid his rent and gave proper notice of the move. This tenant's rental amount was \$600.00. The Landlord claims a loss of rental income from this tenant in the amount of **\$1,200.00**.

The Landlord made a previous application in relation to this dispute for an Order for Substituted Service on the Tenant and claims the cost of this application in the amount of **\$25.00**. It is noted that this application was dismissed.

### Analysis

Section 37 of the Act provides that when a tenancy vacates a rental unit, the tenant must leave the unit reasonably clean and undamaged except for reasonable wear and tear. Given the undisputed evidence of the Landlord of damage to the unit by the

Tenant and considering the reasonable amounts claimed for the cost to repair the damage, I find that the Landlord has substantiated that the Tenant failed to leave the unit clean or undamaged and is entitled to costs for repairs and clearing in the amount of **\$788.00** (768.00 + 20.00).

Given the undisputed evidence of the Landlord, I find that the Landlord is entitled to the amount of **\$625.00** for unpaid November rent. Considering that the Landlord elected to end the fixed term tenancy and the Tenant moved out of the unit on the day after the date indicated by Notice to end tenancy, I dismiss the claim of the Landlord in relation to lost rental income for December 2011.

Although the Landlord supplied a letter from one tenant indicating that this tenant ended the tenancy due to the noise of the Tenant, considering that this tenant did not pay the rent and left without notice, I find that the Landlord has not substantiated that this tenant left solely due to any fault of the Tenant and I dismiss this part of the Landlord's claim.

As the other tenant left with notice and full payment of rent, I find that the Landlord has not substantiated a loss in relation to this tenancy and I dismiss this part of the Landlord's claim.

The Landlord is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$1,463.00**. Setting the security deposit and interest of **\$300.00** plus the **\$100.00** key deposit off the entitlement leaves **\$1,063.00** owing to the Landlord.

As the application in relation to the substituted service was dismissed, I decline to make any award for recovery of the fee associated with that application.

### Conclusion

**I order** that the Landlord retain the **deposits** and interest of \$400.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act

for the balance due of **\$1,063.00**. If necessary, this order may be filed in the Small Claims 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: February 02, 2012.

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Residential Tenancy Branch