



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND, MNR, MNSD, MNDC

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent

The landlord's agent testified the tenants were served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on June 13, 2012 and by registered mail on August 3, 2012 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenants on the 5<sup>th</sup> day after it was mailed.

Based on the testimony and evidence of the landlord, I find that the tenants have been sufficiently served with the documents pursuant to the *Act*.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid utilities; for compensation for damage to the rental unit; for compensation for damage or loss and for all or part of the security deposit, pursuant to Sections 37, 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord provided a copy of a tenancy agreement signed by the parties on September 6, 2011 for a 16 month fixed term tenancy beginning on September 6, 2011 for a monthly rent of \$1,800.00 due on the 1<sup>st</sup> of each month with a security deposit of \$900.00 and a pet damage deposit of \$360.00 paid.

The landlord's agent testified the tenancy ended on May 31, 2012 and a move out inspection was completed on June 1, 2012. The agent submits the male tenant attended the move out inspection but left prior to completion and he did not sign the inspection report.

The landlord provided a copy of the Condition Inspection Report and photographic evidence of the condition of the property and rental unit at the end of the tenancy. The

Report records that the rental unit, particularly the basement unit required extensive cleaning and that there were some holes in the wall of one of the bedrooms.

The photographic evidence shows the condition of the yard with grass that has not been cut is some time; a wall with several holes and marks; a mattress out in the yard; a fire pit with debris; and the need for cleaning the suite kitchen and plumbing fixtures. The landlord's agent also testified that once the grass was cut there was a large amount of dog feces scattered throughout the property.

The landlord's agent testified the tenants had flushed an item into the septic system that caused the pump to fail and required extensive repairs. The agent further testified that she had spoken to the tenants at the start of the tenancy about use of the septic system because they had just completed major work.

The agent also testified that the tenancy agreement includes an addendum specifically on the issues of using a septic system and although she did not provide a copy of this addendum I note that it is reference in clause 45 of the tenancy agreement.

The landlord has submitted into evidence an estimate from a fuel supplier in the amount of \$449.93 for heating oil; an invoice dated November 2, 2011 for propane fill up; a receipt for cleaning of \$176.00; receipts for repairs to the septic system in the amount of \$1,570.39.

The landlord seeks the following compensation:

| Description                            | Amount            |
|--|-------------------|
| Cleaning – amended                     | \$176.00          |
| Drywall repairs                        | \$100.00          |
| Painting                               | \$200.00          |
| Grass cutting                          | \$80.00           |
| Dog waste removal                      | \$200.00          |
| Fire pit cleaning and mattress removal | \$100.00          |
| Septic Repairs                         | \$1,570.39        |
| Oil tank fill                          | \$449.93          |
| Propane Tank fill                      | \$316.83          |
| <b>Total</b>                           | <b>\$3,193.15</b> |

### Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;

2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 37 of the *Act* requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all keys or other means of access that are in the possession and control of the tenant and that allow access to and within the residential property.

From the condition inspection report and photographic evidence I find the tenants failed to leave the rental unit reasonably clean in violation of Section 37 and as such the landlord has suffered a loss and by way of the cleaning bill I find the landlord has established the value of that loss at \$176.00.

I also find the tenant has caused damage to a wall in one of the bedrooms in violation of the requirement under Section 37 to leave the unit undamaged, however as the landlord has failed to provide any estimates or receipts, I find the landlord has failed to provide sufficient evidence to establish the value of this loss and I dismiss the portion of the landlord's claim for drywall repairs and painting.

In relation to the landlord's claims for grass cutting; removal of dog waste; fire pit cleaning and mattress removal I find the landlord has provide sufficient evidence the tenants failed to comply with the requirements under Section 37, however again as the landlord has provided no evidence to establish the value of the claim, I dismiss these portions of the landlord's claim.

I am satisfied the landlord had fully informed the tenants of proper usage of a septic system and based on the undisputed testimony and confirmed cause of the septic problems by way of the invoice from the service provider I find the tenants breached both their obligations under the *Act* and under the tenancy agreement.

I find the landlord has suffered loss as a result of this breach and that the landlord has provided sufficient evidence in the form of an invoice from the service provider to establish the value of this loss at \$1,570.39.

As to the landlord's claim for both oil and propane fill ups at the end of the tenancy, I find no term in the tenancy agreement that requires the tenants to leave either tanks filled up. Further, there is no evidence before me, despite the landlord's submission of an invoice for propane dated shortly after the start of this tenancy, of the level of either tank at the start of the tenancy.

As such, I find the landlord has not established a violation of the tenancy agreement or any requirements under the *Act* and I dismiss these portions of the landlord's claim.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,771.39** comprised of \$1,570.39 septic system repairs; \$176.00 cleaning and, as the landlord was only partially successful in their claim \$25.00 of the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and pet damage deposit held in the amount of \$1,260.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$511.39**.

This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: August 15, 2012.

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Residential Tenancy Branch