



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPB, MND, MNSD, MNDC, FF

### Introduction

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

- an Order of Possession pursuant to section 55;
- a monetary order for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The tenants confirmed that the landlord handed them a 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) on September 30, 2012. Both parties agreed that the tenancy ended when the tenants vacated the premises by November 1, 2012, in accordance with the landlord's 1 Month Notice. The landlord provided sworn oral testimony and written evidence that he sent both tenants a copy of his dispute resolution hearing package by registered mail on November 16, 2012. The landlord provided copies of the Canada Post Tracking Numbers to confirm these mailings. The female tenant testified that she received the landlord's hearing package by registered mail. Although the male tenant said that he did not receive the landlord's hearing package by registered mail, he confirmed that he had reviewed the hearing package received by his wife and was prepared to proceed with this hearing. I am satisfied that the above documents were served to the tenants in accordance with the *Act*.

At the commencement of the hearing, the landlord withdrew his application for an Order of Possession as this tenancy ended on November 1, 2012. He said that this portion of his application was submitted in error. The landlord's application for an Order of Possession is withdrawn.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for damage and losses arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This tenancy for the upper level in a two unit rental home commenced as a one-year fixed term tenancy on March 1, 2009. Although the tenants signed another fixed term tenancy agreement for these rental premises on August 1, 2011, by the end of the tenancy this had become a periodic tenancy. Monthly rent by the time the tenants vacated the premises was set at \$1,450.00, payable in advance on the first of the month. The tenants were also responsible for 65% of the hydro and gas for this rental property. The landlord continues to hold the tenants' \$725.00 security deposit paid on or about March 1, 2009.

The landlord's application for a monetary award of \$7,200.00 included the following items as set out in the landlord's November 30, 2012 Monetary Order Worksheet:

<b>Item</b>	<b>Amount</b>
Damage to Hardwood Flooring	\$2,648.80
Cleaning	448.00
Painting and Repairs	2,464.00
Lawn Damage	1,232.00
Paint Supplies	573.69
Repair Staircase	1,657.00
Registered Mailing Costs	21.37
Recovery of Filing Fee for this application	100.00
<b>Total of Above Items</b>	<b>\$9,144.86</b>

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to a final and binding settlement of all issues arising out of this tenancy under the following terms:

1. Both parties agreed that the monetary claim made by the landlord will be resolved by the tenant's agreement to pay the landlord \$2,000.00 by March 31, 2013.
2. Both parties agreed that the landlord will retain the tenants' security deposit for this tenancy plus applicable interest.
3. Both parties agreed that the monetary terms of this settlement agreement constituted a final and binding resolution of all issues arising out of this tenancy.

### Conclusion

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$2,000.00. I deliver this Order to the landlord in support of the above agreement for use in the event that the tenant(s) do not abide by the terms of the above settlement. The landlord is provided with these Orders in the above terms and the tenant(s) must be served with a copy of these Orders as soon as possible after a failure to comply with the terms of the above settlement agreement. Should the tenant(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

As per the parties' agreement, I allow the landlord to retain the tenants' security deposit plus applicable interest. No interest is payable over this period.

The landlord's application for an Order of Possession is withdrawn.

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 13, 2013

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Residential Tenancy Branch

