



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNR OPC MNDC FF

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 47; and
- d) An order to recover the filing fee pursuant to Section 72.

### **SERVICE:**

The tenant did not attend. The landlord provided sworn evidence that he had served the Notice to End Tenancy and the Application for Dispute Resolution personally with a witness. I find that the tenant was properly served with the documents according to sections 88 and 89 of the Act.

### **Issue(s) to be Decided:**

The tenant vacated the unit on July 31, 2013 so the landlord no longer requires an Order of Possession. The remaining issue is if the landlord has proved on the balance of probabilities that the tenants did damage, that it is beyond reasonable wear and tear and the amount it will cost to cure the damage. Is the landlord entitled to recover the filing fee for this application?

### **Background and Evidence:**

Only the landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The landlord said the tenancy commenced seven years ago, rent is currently \$850 a month and there is no security deposit as the tenants applied it to some back debts some years ago. He said the tenants left July 31, 2013 owing no rent but left considerable damage behind them which will cost a significant amount to fix. He said he has move-in and move-out reports but did not provide them as evidence for the hearing.

He also has no invoices yet to prove the amount owing. I advised him of the necessity of proof that the tenants did the damage, that it was beyond reasonable wear and tear and proof of the amounts it will cost him to repair the damage. As ending the tenancy

was the largest issue at the time of filing the application, the landlord concentrated on providing evidence of cause for the file.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

**Analysis**

An Order of Possession is no longer required as the tenant has moved. No monetary order for rent arrears is required as the landlord said the tenant left owing no arrears of rent.

In respect to the claim for compensation for damages, I find the landlord has submitted insufficient evidence at this time to support his claim as he was concentrating on the evidence for cause to end the tenancy. Therefore, I dismiss his claim for compensation for damages and I give him leave to reapply. He has been unable to find the forwarding address of the tenants and would be unable to serve a monetary order for the filing fee so I give him leave to add \$50 for this filing fee to his application for compensation for damages when he has an address for service for a further application.

**Conclusion:**

I dismiss the landlord's claim for compensation for damages and I give him leave to reapply. I find he is entitled to recover the filing fee for this application and I give him leave to add \$50 for this filing fee to his application for compensation for damages.

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, 2013

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Residential Tenancy Branch