



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNDC, MNSD, FF

### Introduction

This is an application filed by the Landlord for a monetary order for damage to the unit, site or property, for unpaid rent or utilities, for money owed or compensation for damage or loss, to keep all or part of the security deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been properly served.

At the end of the hearing, the Tenant, D. C. Stated that he had a different mailing address than the co-tenant, S.C. who is currently out of the country. As such the Tenant, D.C.'s mailing address shall be corrected.

### Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to keep all or part of the security deposit?

### Background and Evidence

This Tenancy began on May 1, 2013 on a fixed term tenancy for 5 months and then ends as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$1,100.00 payable on the 1<sup>st</sup> of each month and a security deposit of \$550.00 was paid.

The Landlord seeks a monetary claim of \$3,171.81. This consists of a claim for \$1,100.00 for the loss of rental income, \$672.00 for the cost of steam cleaning the furniture, \$672.00 for the cost of a new mattress and box spring, \$196.00 for the cost of

broken window screens, \$156.80 for the cost of new bed frame, \$134.50 for the cost of replacing the locks, \$120.00 (withdrawn by the Landlord as no details could be provided for this claim) and \$120.00 for the cost of excessive utilities. The Landlord states that the Tenant breached the fixed term tenancy agreement by failing to provide proper notice to end the tenancy prematurely, for damage to the rental unit (a bed frame, mattress and box spring, broken window screens and that the Tenants left the rental unit dirty requiring cleaning particularly the furnished furniture. The Landlord also states that the Tenants failed to return 1 of the 3 keys that was given to the Tenants and that there is an agreement for the Tenants to pay any overages for utilities in the tenancy agreement. The Tenant disputes the Landlord's claims stating that the rental was left clean with no damages. The Tenant also notes that no receipts/invoices were submitted that could provide for the specific monetary claim made by the Landlord. The Tenant also states that the Landlord has not provided any evidence to support his claims. The Tenant however has stated in his direct testimony that there was no date provided in the notice to vacate that would have given the Landlord sufficient notice to re-rent the unit without any losses. The Landlord noted that none of the items claimed have been replaced/bought as he has no funds and that the amounts claimed are based upon estimates received verbally.

### Analysis

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

As the Tenant is disputing the claims made by the Landlord, I find based upon the evidence provided that the Landlord has failed to establish a monetary claim as applied for. The Landlord has not provided sufficient evidence that there was damage or that any damage was caused by the Tenants. No condition inspection report for the move-in or the move-out were completed, the Landlord has not provided any relevant evidence of damage. The Landlord has failed to provide sufficient evidence of an actual amount required for compensation, ie. receipts/invoices as the Landlord has stated that none of the items claimed have been replaced. However, the Landlord has established a claim

for the loss of rental income based upon the Tenant's direct testimony that proper notice was not given prior to the end of the tenancy. On this basis, I find on a balance of probabilities that the Landlord has established a claim for the loss of rental income of \$1,100.00. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$550.00 security deposit in partial satisfaction of the claim and I grant a monetary order under section 67 for the balance due of \$600.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The Landlord is granted a monetary order for \$600.00.  
The Landlord may retain the \$550.00 security deposit.

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: December 18, 2013

---

Residential Tenancy Branch

