



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNDC, MNSD, FF

### Introduction

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

- a monetary order for unpaid rent, 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 tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The landlord, K.C. (the landlord) attended the hearing by conference call and gave undisputed testimony. The landlord attended as agent for the landlord, J.C. The landlord stated that the tenant was served with the Notice of Hearing Package and the submitted documentary evidence by Canada Post Registered Mail on September 11, 2014 and have submitted a copy of the Customer Receipt Tracking number as confirmation. The landlord stated that an online search of the Canada Post website confirmed that the tenant signed and received the Notice of Hearing Package and the submitted documentary evidence. I accept the undisputed evidence of the landlord and find that the tenant was properly served as per section 89 of the Act.

The landlord clarified that as soon as he received the tenant's forwarding address in writing on August 27, 2014, he filed an application for dispute resolution on September 10, 2014 seeking a monetary claim against the tenant and authorization to retain the security deposit to offset that claim.

Issue(s) to be Decided

Are the landlords entitled to a monetary order for damage, for unpaid rent, for money owed or compensation for damage or loss?

Are the landlords entitled to an authorization to retain the security deposit?

Are the landlords entitled to recovery of their filing fee?

Background and Evidence

This tenancy began on December 1, 2011 on a fixed term tenancy ending on July 31, 2012 as shown by the submitted copy of the signed tenancy agreement dated November 30, 2011. The landlord provided evidence that both parties agreed to mutually extend the end of tenancy date to August 31, 2013. The monthly rent was \$675.00 payable on the 1<sup>st</sup> Day of each month and a security deposit of \$337.50 was paid on November 30, 2011.

The landlord stated that the tenant provided his forwarding address in writing in a letter on August 27, 2014 approximately 360 days after the end of tenancy. The landlord has submitted a copy of the letter which was delivered by Canada Post Registered Mail.

The landlord seeks a monetary claim of \$739.43 which consists of:

- \$45.38 for unpaid utilities; and
- \$694.05 for the costs of cleaning and repairs.

The landlords stated that the tenant abandoned the rental premises leaving various items as listed in the landlords' itemized list. The landlords stated that the tenants left the rental unit dirty and damaged requiring cleaning and repairs.

The landlord has submitted a copy of a completed condition inspection report for the move-in dated December 1, 2011. No condition inspection report for the move-out was conducted as the landlord states that the tenant abandoned the rental unit without notice and did not provide a forwarding address in writing until approximately 1 year later. The landlord has submitted a copy a completed condition inspection report for a move-in of their new tenants which took place on September 8, 2013 (approximately 8 days after the tenant abandoned the rental premises).

The landlord has provided a copy of the invoice dated September 9, 2013 which describes the scope of work from the contractor which consists of:

- Suite Cleaning with Appliance Cleaning;
- Supply and install damaged blinds;
- Supply and install light bulbs;
- Supply patch, sand and paint holes from removed shelves; and
- Garbage removal

The invoice shows that \$694.05 was paid. The landlord has also submitted 16 photographs identifying the state of the rental premises in support of their application. The various photographs show markings on various pieces of trim, patches on a wall covering holes, scrapes on the flooring, dirt and stained flooring, a dirty stove, a dirty refrigerator with leftover food items and various items left by the tenant. The landlord has provided an itemized list of abandoned items which consists of:

- 1 black chair;
- 1 wooden shelf;
- 1 black basket;
- 1 rolly desk;
- 1 handheld vacuum;
- 1 soccer ball; and
- Food contents.

The landlord has also submitted a spreadsheet for utilities based upon a 29.06 percentage of utilities incurred, which is equal to \$45.38. The landlord clarified that a verbal agreement was made with the tenant which was not noted on the signed tenancy agreement that the tenant would pay 29.06% of all utilities. The landlord noted that the total utilities owing at the end of the tenancy was \$90.77. The landlord has also submitted copies of the 3 utility invoices.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear.

I accept the undisputed evidence of the landlord and find that the tenant abandoned the rental premises without notice on August 31, 2013 leaving the rental premises dirty and requiring repairs as submitted by the landlord. I accept the landlord's evidence of the invoices for the claims of \$45.38 for unpaid utilities and \$694.05 for the cost of cleaning and repairs. The landlord has provided sufficient evidence to establish a comparison of the rental unit at the beginning of the tenancy through a completed condition inspection report for the move-in and a completed condition inspection report for the move-in of the new tenant following the end of this tenancy. The landlord provided supporting evidence in the form of photographs depicting the condition of the rental unit at the end of tenancy. The landlord has established a monetary claim of \$739.43.

The landlord is also entitled to recovery of their \$50.00 filing fee. I order that the landlord retain the \$337.50 security deposit in partial satisfaction of the claim and I grant a monetary order under section 67 for the balance due of \$421.93

### Conclusion

The landlord is granted a monetary order for \$421.93. The tenant must be served with a copy of this order. Should it be necessary, this order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

The landlord may retain the security deposit in partial satisfaction of the claim.

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: April 02, 2015

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Residential Tenancy Branch

