



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND, MNDC, MNR, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order authorizing her to retain the security deposit. Despite having been served with the application for dispute resolution and notice of hearing sent via registered letter on September 25, 2014, the tenant did not participate in the conference call hearing.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background, Evidence and Analysis

The landlord's undisputed evidence is as follows. The tenancy began on December 15, 2013 and ended on August 29, 2014. Rent was set at \$1,375.00 per month and the tenant paid a \$637.50 security deposit at the outset of the tenancy. The tenant also paid a \$12.50 fob deposit.

The *Residential Tenancy Act* (the "Act") establishes the following test which must be met in order for a party to succeed in a monetary claim.

1. Proof that the respondent failed to comply with the Act, Regulations or tenancy agreement;
2. Proof that the applicant suffered a compensable loss as a result of the respondent's action or inaction;
3. Proof of the value of that loss; and
4. (if applicable) Proof that the applicant took reasonable steps to minimize the loss.

I address the landlord's claims and my findings around each as follows:

**Rent and NSF fees:** The landlord testified that the tenant failed to pay \$925.00 of his rent in the month of May 2014 and paid no rent whatsoever in June – August 2014. She testified that he wrote 2 cheques in June, both of which were returned by the bank

for insufficient funds. The landlord entered into evidence a copy of the tenancy agreement which provides for a \$25.00 fee for each cheque returned by the bank. She seeks an award of \$5,050.00. I find that the tenant was obligated under the tenancy agreement to pay rent on the first day of each month and that he failed to pay \$950.00 of the rent due in May and paid no rent whatsoever in the months of June – August inclusive. I further find that 2 of the tenant's cheques were returned by the bank and that the tenant is obligated to pay a \$25.00 fee for each returned cheque pursuant to the terms of the tenancy agreement. I find that the landlord has suffered a compensable loss and I find that the landlord is entitled to the amount claimed. I award the landlord \$5,050.00 for unpaid rent and \$50.00 for NSF fees.

**Liquidated damages:** The landlord entered into evidence a copy of the tenancy agreement which provides that if the tenant breaches a material term of the agreement that causes the landlord to end the tenancy before the end of the fixed term (December 31, 2014), the tenant must pay \$400.00 as liquidated damages for costs associated with re-renting the unit. The tenancy ended because the tenant was evicted for non-payment of rent. I find that payment of rent is a material term of the tenancy agreement and that the tenant breached that term. I find that the landlord is contractually entitled to liquidated damages and I award her \$400.00.

**Key fob and mail key:** The landlord testified that at the end of the tenancy, the tenant failed to return the key fob and mail key. She testified that it is her usual practice to charge \$200.00 to replace the fob and \$35.00 to replace the mail key. I find that section 37 of the Act required the tenant to return the fob and keys at the end of the tenancy and I find that he failed to do so. I find that the landlord suffered a compensable loss as a result and I find her claim to be reasonable. I award the landlord \$235.00.

**Cleaning:** The landlord testified that the tenant did not clean the unit at all at the end of the tenancy and provided photographs showing the condition of the unit. She provided an invoice showing that her maintenance staff spent 14 hours cleaning the unit but deducted 2 hours of that time to account for reasonable wear and tear. Section 37 of the Act required the tenant to leave the rental unit reasonably clean and I find that the tenant failed to clean the unit and as a result, the landlord had to incur cost and expend labour to clean the unit. I find that the landlord suffered a compensable loss and I find her claim to be reasonable. I award the landlord \$300.00.

**Furniture removal:** The landlord testified that the tenant left behind a significant number of items at the end of the tenancy and provided photographs showing that the tenant abandoned much of his furniture. The landlord seeks to recover \$200.00 as the cost of removing those items. Section 37 of the Act required the tenant to vacate the unit at the end of the tenancy, which means removing his belongings. I find that the

tenant failed to remove his belongings and as a result, the landlord had to pay to have those items removed. I find that the landlord suffered a compensable loss and I find her claim to be reasonable. I award the landlord \$200.00.

**Filing fee:** As the landlord has been successful in this claim, I find she should recover the filing fee paid to bring her application and I award her \$100.00.

In summary, the landlord has been successful as follows:

Unpaid rent	\$5,050.00
NSF fees	\$ 50.00
Liquidated damages	\$ 400.00
Key fob and mail key	\$ 235.00
Cleaning	\$ 300.00
Furniture removal	\$ 200.00
Filing fee	\$ 100.00
<b>Total:</b>	<b>\$6,335.00</b>

I order the landlord to retain the \$637.50 security deposit and the \$12.50 fob deposit in partial satisfaction of the claim and I grant her a monetary order under section 67 for the balance of \$5,685.00. 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 will retain the security and fob deposits and is granted a monetary order for \$5,685.00.

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: May 01, 2015

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Residential Tenancy Branch

