



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Code MNR, MND, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the "Act"), for a monetary order for unpaid rent, for damages to the unit and to recover the filing fee from the tenant.

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were served on August 21, 2015, in person on the tenant at their place of work.

I find that the tenant has been duly served in accordance with the Act.

The landlord appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to monetary compensation for damages?

### Background and Evidence

The tenancy began on January 1, 2015. Rent in the amount of \$1,300.00 was payable on the first of each month. The tenant did not pay the required security deposit. The tenancy ended on July 31, 2015.

The landlord claims as follows:

a.	Unpaid rent for July 2015, and late fee	\$1,325.00
b.	Damages to the unit	\$1,000.00
c.	Filing fee	\$ 50.00
	<b>Total claimed</b>	<b>\$2,375.00</b>

The landlord testified that the tenant failed to pay any rent for July 2015. The landlord stated that the tenant had difficulties paying the rent during the tenancy. The landlord stated that the tenancy agreement also contains a term that the tenant must pay \$25.00 if rent is paid late. The landlord seeks to recover unpaid rent and the late fee for July 2015, the amount of \$1,325.00. Filed in evidence are emails between the parties and a copy of the tenancy agreement.

The landlord testified that the tenant caused damage to a door as their boyfriend punched a hole in it. Three blinds had to be replaced and the entire unit had to be painted as there were lots of chips and dents in the paint. The landlord stated that the entire unit needed to be cleaned and a truck load of garbage was required to be disposed. The landlord seeks to recover the amount of \$1,000.00.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Rules about payment and non-payment of rent are defined in Part 2 of the Act.

### **Rules about payment and non-payment of rent**

**26** (1) *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

The evidence of the landlord was the tenant did not pay rent owed for July 2015. I find the tenant has breached section 26 of the Act when they failed to pay rent when due

under the tenancy agreement and this has caused losses to the landlord. Therefore, I find the landlord is entitled to recover unpaid rent and the late fee for July 2015, in the amount of **\$1,325.00**.

How to leave the rental unit at the end of the tenancy is defined in Part 2 of the Act.

### **Leaving the rental unit at the end of a tenancy**

*37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.*

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

In this case, the evidence of the landlord was that the tenant caused damage to the rental unit. As the onus is on the landlord to prove their claim, I find without further evidence from the landlord, such as photographs of the damage or receipts for the repairs, I am unable to determine if the tenant has failed to comply with section 37 of the Act. Therefore, I dismiss this portion of the landlord's claim due to insufficient evidence.

I find that the landlord has established a total monetary claim of **\$1,375.00** comprised of the above described amount and the \$50.00 fee paid for this application. I grant the landlord an order under section 67 of the Act.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant

### Conclusion

The landlord is granted a monetary order.

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 19, 2016

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**Residential Tenancy Branch**

