



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND, MNR, MNDC, 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 her filing fee for this application from the tenant pursuant to section 72.

The landlord attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on January 20, 2016. The landlord has provided a copy of the Canada Post Customer Receipt Tracking number as confirmation. I accept the undisputed affirmed evidence of the landlord and find that the tenant has been properly served as per sections 88 and 89 of the Act. The tenant is deemed served as per section 90 of the Act.

Section 72 of the Act addresses **Director's orders: fees and monetary order**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, the Landlord's claim for recovery of litigation costs (Canada Post Registered Mail) is dismissed.

The landlord also seeks to increase the monetary claim of the application. The landlord's request was not properly filed in an amendment to the application for dispute

resolution. As such, the landlord's application is limited to the original amount claimed of \$5,161.94 and shall not include the landlord's claim for "Moving Fees".

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, for damage to the unit, for money owed or compensation for damage or loss and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on February 1, 2015 on a fixed term tenancy ending on January 31, 2016. The landlord stated that the tenant vacated the rental unit on November 15, 2015. The monthly rent was \$1,150.00 and a security deposit of \$500.00 was paid on February 1, 2015. No condition inspection reports for the move-in or the move-out were made.

The landlord seeks a monetary claim of \$5,078.60 which consists of:

|            |  |
|------------|--|
| \$3,450.00 | Unpaid Rent for 3 Months (November, December, January) |
| \$222.29   | Strata Fine (Dumping Garbage)                          |
| \$176.50   | Paint  |
| \$16.66    | Replace Refrigerator Ice Tray                          |
| \$54.18    | Replace Locks and Knobs                                |
| \$1,052.74 | Replace Damaged Floors                                 |
| \$106.23   | Replace Missing Smoke Detector and Damaged Tracks      |

The landlord provided undisputed affirmed testimony that the tenants failed to pay rent for the months November 2015, December 2015 and January 2016 at \$1,150.00 per month.

The landlord provided undisputed affirmed testimony that the tenants upon vacating the rental unit left garbage in unauthorized areas of the strata property resulting in a Fine being levied by the Strata. The landlord stated that she was provided with FOB access records, video and photographic evidence showing the tenants dumping the garbage.

The landlord provided undisputed affirmed testimony that the tenants left the rental unit damaged, specifically:

- Walls scratched and damaged
- Broken Ice Tray in Refrigerator
- Scratched and Damaged Floors
- Missing Smoke Detectors and Damaged Closet Door Tracks

In support of the claims, the landlord has submitted:

- Copy of letter dated December 17, 2015 re: Improper Garbage Disposal
- Copy of FOB access logs
- Copy of photograph of Garbage dumped
- Copy of Home Depot Receipt re: Paint
- Copy of Rona Receipt re: ice tray replacement
- Copy of Canadian Tire Receipt re: Lock
- Copy of MCC Center Thrift re: Door Knobs
- Copy of Home Depot Receipt re: Flooring
- Copy of Home Depot Receipt re: Smoke Detectors
- Copy of Home Depot Receipt re: Tracks

### 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 that could be expected for a rental unit of this age.

I accept the undisputed affirmed evidence of the landlord that the tenant failed to pay rent and left the rental unit damaged as claimed. The landlord has provided copies of all receipts used to repair or replace damaged or missing elements of the rental property. The landlord has established a total monetary claim of \$5,078.60.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlord is granted a monetary order for \$5,178.60.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

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: September 08, 2016

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Residential Tenancy Branch