



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PALMAR PROPERTIES INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR MND 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; and authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:14 pm in order to enable the tenant to connect with this teleconference hearing scheduled for 1:00 pm. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions.

The landlord testified that he served the tenant with his Application for Dispute Resolution ("ADR") on February 27, 2016 by registered mail. The landlord submitted the tracking information for both the original ADR package and the second package sent to the tenant including additional evidence. The original package tracking information indicates that the package was delivered on March 4, 2016. The landlord testified that the evidence package was refused by the tenant. In accordance with section 89 and 90 of the *Act*, I find that the tenant was served with the landlord's Application for Dispute Resolution, including the Notice of Hearing, on March 4, 2016.

### Issue(s) to be Decided

Is the landlord a monetary order for unpaid rent, damage and other compensation?  
Is the landlord entitled to recover the filing fee for this application from the tenant?

## Background and Evidence

This tenancy began October 15, 2015 as a one year fixed term tenancy with a rental amount of \$1900.00 payable on the first of each month. The landlord testified, referring to the residential tenancy agreement submitted as evidence, that the tenant was required to pay a \$950.00 security deposit by November 1, 2015. The landlord testified that the tenant never paid a security deposit. The tenant vacated the rental unit on approximately November 15, 2015.

The landlord testified that, when the tenant vacated the rental unit, he left all of his belongings behind. The landlord testified that the tenant's furniture was left behind including a sofa, a crib as well as chairs and tables. He testified that there was a lot of garbage in the rental unit and that the walls had some blood splatters. As well, the landlord testified that many used needles were left in the rental unit. The landlord testified that he hired movers to pack and move the tenant's items, cleaners to clean up the mess and rented storage for the tenant's belongings.

The landlord submitted several invoices to provide evidence of his monetary loss as a result of this tenancy. He submitted a \$338.50 invoice for container storage. He submitted a locksmith receipt for changing the locks to the rental unit in the amount of \$165.20. He submitted a typewritten note indicating \$240.00 for cleaning. He submitted a \$468.30 utility bill that indicated the tenant was responsible for a percentage totalling \$121.58. He submitted an invoice for the storage unit to be emptied and the items inside to be disposed of in the amount of \$630.00. The landlord did not submit a receipt for the removal of all the contents of the unit and loading the storage bin.

Correspondence between the parties was submitted by the landlord. In that email correspondence, the tenant indicated that he was not able to meet the terms of the tenancy agreement and that the landlord should have known better than to rent to him. A letter from the tenant to the landlord dated November 6, 2015 was submitted as evidence. It stated,

...I have terminated the tenancy and will have the suite vacated, cleaned and put back to its original condition by November 30, 2015.

I understand that I am still responsible for all the terms of the Tenancy Agreement (ie. payment of rent) until the suite is re-rented.

A prior letter dated November 4, 2015 stated that the tenant would vacate the suite by November 7, 2015.

As of January 15, 2016, the landlord re-rented the unit however the monthly rental amount is \$1800.00 (\$100.00 less than the tenant's rental amount). The landlord testified that, based on the rental market at that particular time of year, he was unable to rent the unit for the amount he had agree to with the tenant.

The landlord did not submit a monetary worksheet to outline the details of the monetary order he sought. However, he provided an email to the tenant outlining the costs he incurred as follows,

<b>Item</b>	<b>Amount</b>
Unpaid Utilities	\$121.58
Contents removal	320.00
Cleaning Unit	240.00
Storage of contents	338.59
Changing locks	165.20
Disposal of tenant's belongings	630.00
Rental Loss: \$100.00 x 10 months	1000.00
Recovery of Filing Fee for this Application	100.00
<b>Monetary Amount Sought by the Landlord</b>	<b>\$2915.37</b>

At this hearing, the landlord testified that he also sought to recover the \$100.00 per month in rental loss that he incurred as a result of the tenant breaching his tenancy agreement. The landlord also sought to recover the filing fee for this application.

### 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 compensation be paid. The party claiming the damage bears the burden of proving that the damage occurred and that it stemmed directly from a violation of the agreement or a contravention of the *Act* by the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the damage.

The landlord has provided receipts and invoices totaling \$1815.37. Those receipts provide sufficient evidence to show the actual monetary cost he incurred at the end of

this tenancy. The receipts provide evidence (notes within invoices) that there was damage that required repair in the rental unit at the end of the tenancy.

Based on the landlord's testimony with respect to the manner in which the tenant vacated the rental unit and the difficulties associated with this tenancy as well as the failure of the tenant to return the keys to the unit, I find that the landlord is entitled to recover the cost of a locksmith to change the locks on the rental unit in the amount of \$165.20.

The landlord provided sworn undisputed evidence regarding the state of the rental unit at the end of the tenancy. I accept the landlord's testimony that the unit was in very poor condition with extensive cleaning needed. The landlord provided a written receipt with for cleaning in the amount of \$240.00. I find that the landlord is entitled to recover a \$240.00 for the cleaning to the rental unit.

Section 30 of the Act provides that, "[when] dealing with a tenant's personal property, a landlord must exercise reasonable care and caution required by the nature of the property and the circumstances" so that the tenant's property is not damaged, lost or stolen. I find that the landlord acted in accordance with the Act in storing the tenant's personal belongings for approximately 6 months after the tenant vacated the residence leaving his personal items and a great deal of garbage and dangerous items behind.

I find that the landlord is entitled to compensation for the cost of removing the tenant's belongings from the residence as well as the cost to store them in accordance with section 25 and section 29 of the Act. The landlord packed, stored and disposed of the tenant's belongings and incurred a cost to do so. I find the landlord is entitled to recover \$630.00 for the cost of packing and removal after storage and \$320.00 for a nominal amount towards the cost to load the tenant's belongings from the rental unit. The landlord is also entitled to the storage costs of \$338.59.

The landlord provided a copy of the residential tenancy agreement to show that the tenant was required to pay a portion of the utilities. He provided a utility bill for the period from October 6, 2015 to December 3, 2015. The tenant vacated the residence on approximately November 15, 2015. Based on this evidence, I find that the landlord is entitled to recover \$100.00 for the utilities while the tenant resided in the rental unit.

The landlord testified that he took steps to mitigate any loss as a result of this tenancy by re-renting the unit within 2 weeks of the tenant vacating the rental unit. The landlord provided testimony that he was not able to rent the unit for \$1900.00 per month but for only \$1800.00 per month. He submitted that this loss of \$100.00 for 10 months should be the responsibility of the tenant.

I find that the landlord has not provided sufficient proof on a balance of probabilities of the efforts he made to attempt to re-rent the unit for \$1900.00 per month. The landlord did not submit documentary evidence to support his testimony that he was unable to re-rent for the same rental amount: no advertisement information or documentation of a change in the rental market at that time. I find that the \$1000.00 loss has not been proven and therefore dismiss this portion of the landlord's claim.

As the landlord was successful in his application, I find that he is entitled to recover the \$100.00 filing fee for this application.

### Conclusion

I issue a monetary order to the landlord as follows,

<b>Item</b>	<b>Amount</b>
Unpaid Utilities	\$100.00
Contents removal	320.00
Cleaning Unit	240.00
Storage of contents	338.59
Changing locks	165.20
Disposal of tenant's belongings	630.00
Recovery of Filing Fee for this Application	100.00
<b>Monetary Order to the Landlord</b>	<b>\$1893.79</b>

The landlord is provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: October 17, 2016

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**Residential Tenancy Branch**