



# 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; and
- authorization to recover his 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 tenants did not attend or submit any documentary evidence. The landlord stated that the tenants were served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on June 24, 2016. The landlord has also submitted 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 tenants were properly served with the notice of hearing package and the submitted documentary evidence as per sections 88 and 89 of the Act. The tenants are deemed served as per section 90 of the Act 5 days later as of June 29, 2016.

### Issue(s) to be Decided

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

Is the landlord entitled to retain all or part of the security deposit?

### 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 January 12, 2016 on a 1 year fixed term tenancy and then thereafter on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated December 26, 2015. The monthly rent was \$2,200.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$1,100.00 and a pet damage deposit were paid on January 12, 2016.

The landlord seeks a monetary claim of \$2,951.96 which consists of:

\$1,100.00	½ Month Unpaid Rent May 2016
\$1,100.00	½ Month Loss of Rental Income June 1-15, 2016
\$326.96	Repairs to back porch post
\$425.00	Cut lawn, clean house and remove garbage left by tenant

The landlord stated that the tenants failed to pay all of the rent owed for May 2016 and were served with a 10 Day Notice to End dated May 26, 2016. The landlord stated that the tenant, P.L. vacated the rental unit on June 4, 2016 then the other tenant, C.D. vacated the rental unit on June 5, 2016. The landlord provided undisputed affirmed testimony that the tenants had only paid ½ of the monthly rent for May 2016 before vacating the rental unit. The landlord provided undisputed affirmed testimony that since the 10 Day Notice dated May 26, 2016 was served the tenants have not paid any rent as of the date of this hearing.

The landlord provided undisputed affirmed testimony that the tenants vacated the rental unit leaving it dirty and damaged as shown by the submitted photographs and the incomplete condition inspection report for the move-in and the move-out. The landlord clarified that the tenants failed to participate in the condition inspection report for the move-out on June 4, 2016 and were served with a Notice of Final Opportunity to Schedule a Condition Inspection for the move-out on June 14, 2016. Neither tenant participated in the condition inspection.

In support of this application the landlord has provided invoices and receipts for the repairs, materials and cleaning required to make this unit re-rentable. The landlord stated that he was able to re-rent the unit on June 15, 2016 after the repairs and cleaning.

### 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.

In this case, I accept the undisputed affirmed evidence of the landlord and find that the landlord has provided sufficient evidence to satisfy me that the tenants failed to pay all of the May rent owed of \$1,100.00. The landlord provided undisputed affirmed evidence that the tenants vacated the rental unit on June 5, 2015 leaving it damaged and dirty requiring cleaning and repairs as shown by the submitted photographs. I also find that as the tenants had vacated the rental unit leaving it damaged and dirty that the landlord was unable to re-rent the unit until June 15, 2016. The landlord has established a total claim for the amount of \$2,951.96.

I authorize the landlord to retain the \$1,100.00 security and the \$550.00 pet damage deposits in partial satisfaction of the claim. No interest was payable during this time.

The landlord having been successful in his application is entitled to recovery of the \$100.0 filing fee.

#### Conclusion

The landlord is granted a monetary order for \$1,401.96.

This order must be served upon the tenants. Should the tenants 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: December 14, 2016

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Residential Tenancy Branch