



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes            MNR, MNDC, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking a monetary order for unpaid rent or utilities; a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the tenants for the cost of the application.

The landlord and both tenants attended the hearing, and the landlord and one of the tenants gave affirmed testimony. The parties were given the opportunity to question each other with respect to the testimony and evidence provided, all of which has been reviewed and is considered in this Decision. No issues with respect to service or delivery of documents or evidence were raised.

### Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenants for unpaid rent?
- Has the landlord established a monetary claim as against the tenants for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for strata move-out fees and for changing the locks to the rental unit?

### Background and Evidence

The landlord testified that this 1 year fixed-term tenancy began on October 1, 2015 and the tenants moved out on April 1, 2016. The landlord does not recall for sure the amount of rent payable under the tenancy agreement or the amount of the security deposit, but believes rent was \$1,600.00 per month payable on the 1<sup>st</sup> day of each month, and a security deposit in half that amount was collected from the tenants. A copy of the tenancy agreement has not been provided, and the landlord testified that the security deposit has been returned to the tenants.

The landlord has provided a monetary order worksheet setting out the following claims:

- \$47.98 for outstanding rent;

The landlord has provided a copy of an email from the landlord to the tenants dated April 14, 2016 showing that the landlord found a new tenant to move in immediately, so the tenants only owe half a month's rent, being \$850.00, and the landlord would keep the \$802.00 security deposit and interest, leaving a balance due to the landlord of \$47.98. The landlord testified that

the tenants have, since the landlord filed this application for dispute resolution, paid that amount to the landlord.

- \$175.00 for a move-out fee;

The landlord testified that the strata introduced this fee after tenants moved in and whenever the landlord gets a new tenant, he has to send a form to the strata showing that the tenants agree to abide by strata by-laws. The landlord did not give the tenants a copy of the strata by-laws but told them how to access that on-line. Also provided is a Statement of Account from the strata addressed to the landlord dated June 14, 2016 showing the move-out fee on April 13, 2016. The tenants have, since the landlord filed this application, paid that amount to the landlord.

- \$138.52 for the cost of a locksmith.

After the tenants moved out, the landlord contacted them numerous times about returning a key. The tenants had returned the key fob and all keys except one, but did not respond to the landlord's requests to return it. The tenants had asked the landlord to change locks when they moved in, and the landlord did so. Since 1 key remains in the tenants' possession, the landlord had to change the locks for the new tenant. A copy of a receipt in the amount of \$138.52 has been provided dated July 12, 2016.

**The tenant** testified that rent in the amount of \$1,700.00 per month was payable, and there are no rental arrears. Also, the security deposit amount was actually \$850.00 which was not returned to the tenants; they agreed that landlord could keep it for a partial month of rent and for ending the fixed term tenancy early.

The tenants do not believe that the \$175.00 strata fee should have been paid to the landlord. The strata changed the rules after the tenancy began, and the tenants did not sign anything that agreed to a move-out fee.

The tenant further testified that the tenants left all keys and fobs at the rental unit except 1 key. The landlord's first message went to his wife's phone or email, and then it just didn't get done until about a month after moving out. The tenant sent it to the apartment address. He realizes that it should have been sent to the landlord's home address.

The tenant submits that the landlord has already been paid \$175.00 that the tenants don't believe the landlord was entitled to collect, and therefore, the landlord has received the cost of changing locks.

### Analysis

Where a party makes a claim against another for money owed or compensation for damage or loss, the onus is on the claiming party to satisfy the 4-part test:

1. That the damage or loss exists;

2. That the damage or loss exists as a result of the other party's failure to comply with the *Act* or the tenancy agreement;
3. The amount of such damage or loss; and
4. What efforts the claiming party made to mitigate such damage or loss.

In this case, the landlord claims costs of partial rent, strata move-out fees and the cost of changing the locks, for a total claim of \$361.50, and the tenants have paid \$222.98 of that amount.

No one has provided me with a copy of the tenancy agreement, however the landlord testified that each time the rental unit is rented, the landlord is required to give a form to the strata wherein the tenants acknowledge abiding by the strata by-laws. I accept that however, no one has provided a copy of the by-laws either, and the tenants dispute the move-out fee. The parties agree that it was a fee introduced by the strata after the tenants moved in.

Given that the tenants have already paid \$222.98 of the landlord's claim, I am not satisfied that the landlord has established that any further loss suffered is a result of the tenants' failure to comply with the *Act* or the tenancy agreement, and the landlord has recovered the cost of changing locks.

#### Conclusion

For the reasons set out above, the landlord's application is hereby dismissed.

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: January 27, 2017

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Residential Tenancy Branch