



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Philip Landick Developments Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MND, MNR, MNDC, MNSD, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by legal counsel for the landlord; an agent for the landlord and two witnesses. The tenants did not attend.

Legal counsel submitted documentary evidence confirming each tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on August 2, 2016 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5<sup>th</sup> day after they have been mailed.

Based on the undisputed submissions of legal counsel, I find that each tenant has been sufficiently served with the documents pursuant to the *Act*.

While the landlord's Application for Dispute Resolution submitted to the Residential Tenancy Branch on July 28, 2016 sought an order of possession of the rental unit based on a 10 Day Notice to End Tenancy for Unpaid Rent, the section of the Application asking for details of the dispute stated that the tenants had vacated the rental unit on October 14, 2015.

As the tenant's no longer had possession of the rental unit I find the landlord's request for an order of possession is moot and I amend the landlord's Application for Dispute Resolution to exclude the matter of possession.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent and for compensation for damage to and cleaning of the rental unit and residential property; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 67, and 72 of the *Act*.

## Background and Evidence

The landlord submitted into evidence the following relevant documents:

- A copy of a tenancy agreement signed by the parties for a 1 year fixed term tenancy beginning on December 1, 2012 with a rent of \$1,250.00 due on the 1<sup>st</sup> of each month with a security deposit of \$625.00 paid;
- A copy of a Notice of Rent Increase dated October 28, 2014 notifying the tenants that on February 1, 2015 their rent would increase to \$1,325.00;
- A copy of a tenant ledger showing unpaid rent over the course of the tenancy between the months of November 2014 and October 2015 totalling \$10,814.86 in arrears and supporting copies of returned cheques;
- Documentary and photographic evidence recording the condition of the residential property and rental unit at the start and end of the tenancy, including various receipts and invoices establishing the costs for supplies to complete cleaning and repairs plus labour costs totalling \$4,521.55

## Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Based on the landlord's undisputed documentary evidence, I am satisfied, the landlord has established the tenants have failed to pay rent in the amounts claimed.

Section 37 of the *Act* states that when a tenant vacates a rental unit at the end of a tenancy the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear and give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

Based on the landlord's undisputed documentary and photographic evidence, I am satisfied the landlord has established the tenants have failed to comply with their obligations as set forth under Section 37 of the *Act*. I am also satisfied the landlord has established that as a result of that failure to comply with Section 37 the landlord has suffered a financial loss to clean and repair the property. I am satisfied that the landlord has established the value of those losses suffered through the submission of their invoices and receipts.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$15,166.41** comprised of \$10,814.86 rent owed; \$4,521.55 as compensation for damages to the residential property and the \$100.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$625.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$14,541.41**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: February 01, 2017

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Residential Tenancy Branch