



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP.  
and [tenant name suppressed to protect privacy]

## **DECISION**

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

The landlord's agent (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 to their forwarding address on October 19, 2016. The landlord has provided in support of this claim a copy of the Canada Post Customer Receipt Tracking number as confirmation of service. I accept the undisputed affirmed evidence of the landlord and find that both tenants were properly served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on October 19, 2016 as per sections 88 and 89 of the Act.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent, for money owed or compensation for damage or 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 June 1, 2016 on a fixed term tenancy until November 30, 2016. The monthly rent was \$875.00 and a security deposit of \$437.50 was paid.

The landlord seeks a monetary claim of \$1,041.15 which consists of:

\$875.00	Unpaid Rent, September 2016
\$25.00	Late Rent Fee
\$28.23	Unpaid Rent, 1 Day October 1, 2016
\$112.93	Loss of Rental Income, October 2-5, 2016

The landlord clarified that the monetary claim sought is being lowered to \$966.16 to account for a \$75.00 credit that the tenants had on their rental ledger.

The landlord provided affirmed testimony that the tenants had failed to pay any rent for September 2016 and vacated the rental unit on October 1, 2016 without proper notice. The landlord clarified that the rental claim of \$28.23 is based upon a pro-rated amount from the monthly rent. The landlord also stated that the rental premises was immediately re-rented on October 6, 2016 and seek the loss of rental income for the 3 day period of October 2-5, 2016 of \$112.93 based upon a pro-rated amount from the monthly rent. In support of this claim, the landlord has provided a copy of the signed tenancy agreement which provides for the \$25.00 late rent fee and the monthly rent amount.

### 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, I accept the undisputed evidence of the landlord and find that the tenants failed to pay rent of \$875.00 for September 2016 and incurred a \$25.00 late rent fee. I also find that the tenants vacated the rental unit on October 1, 2016 without notice and that the landlord suffered a loss of rent and rental income. As such, I find that the landlord has justified their monetary claim of \$966.16.

Having been successful, the landlord is entitled to recovery of the \$100.00 filing fee.

In offsetting this claim, I authorize the landlord to retain the \$437.50 security deposit in partial satisfaction of the claim.

### Conclusion

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord an award for unpaid rent/loss of rental income, authorization to retain the security deposit, plus the recovery of his filing fee

<b>Item</b>	<b>Amount</b>
Monetary Claim Established	\$966.16
Less Returned Portion of Security Deposit	-437.50
Recovery of Filing Fee for this Application	100.00
<b>Total Monetary Order</b>	<b>\$628.66</b>

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: April 19, 2017

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Residential Tenancy Branch