



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

MND MNDC MNR MNSD FF

### Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("the Act") for: a monetary order for unpaid rent and for damage to the unit at the end of the tenancy 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 the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although this teleconference hearing continued until 1:24 p.m. The landlords (KG and RP) both attended the hearing and they were both given a full opportunity to be heard, to present sworn testimony, and to make submissions.

Landlord KG testified that she hand delivered the landlord's Application for Dispute Resolution package ("ADR") on September 30, 2016. She testified that, within the small community they live in, the landlords were able to find the tenant's parked car, wait for her to return to it and serve her with the documents including the Notice of Hearing and the landlord's documentary evidence. Both landlords provided undisputed sworn testimony regarding the service of the ADR. Based on all of the evidence provided to me, I find that the tenant was duly served with the landlords' ADR package on September 30, 2016 in accordance with section 89 of the Act.

### Issue(s) to be Decided

Are the landlords entitled to a monetary order for unpaid rent and damage to the unit?

Are the landlords entitled to retain the tenant's security deposit?

Are the landlords entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

This tenancy began on June 12, 2009 as a month to month tenancy with an original rental amount of \$800.00 payable on the first of each month. By the end of this 6 year tenancy, the tenant's monthly rental amount was \$837.43. As a result of a residential tenancy dispute resolution hearing on December 10, 2015, the landlords received an Order of Possession for the rental unit. The landlords testified that the tenant insisted that she would not vacate the

rental unit; however, when the landlords came to inspect the unit on December 31, 2015, the tenant had vacated the rental unit.

The landlords both testified that, after the dispute resolution hearing on December 10, 2015, where the landlords were issued an Order of Possession, the tenant stopped payment on her already late November 2015 rent check and that her December 2015 rent check was returned with insufficient funds. The landlords submitted copies of the chargeback invoices from a bank with respect to both rent checks.

The landlords submitted documentary evidence including photographs of the rental unit at the end of the tenancy; receipts for items purchased to repair and clean the rental unit at the end of the tenancy; as well as a copy of the residential tenancy agreement.

The landlords testified that the tenant left the rental unit in a state of complete disrepair. The landlords referred to the photographic evidence to show the amount of refuse that was left behind as well as the damage to the rental unit. The landlords both testified that they made two separate trips to the dump in order to dispose of all the garbage left behind in the rental unit. The landlords submitted two invoices with respect to the dump trips.

The landlords referred to the photographic evidence that showed that the tenant also left the rental unit damaged with appliance, cupboards and other items broken. Landlord KG testified that the tenant removed all of the light bulbs from the rental unit and that the fire extinguisher and smoke alarm were also removed. Landlord RP testified that the refrigerator drawers and handle were broken but that they did not repair as they were unable to find parts to replace them. Landlord RP testified that he generally attempted to repair all items broken and damaged within the rental unit but that the bathroom sink was cracked, requiring replacement. The landlords' receipts indicated that most of their purchases were for repair equipment to fix and cover damage to the rental unit.

Landlord RP also testified that the four-plex unit rented by the tenant had been completely renovated just prior to the start of her tenancy including but not limited to; new kitchen cabinets (now with holes); new bathroom (including sink); all flooring and windows within the rental unit; as well as new electrical wiring and outlets. The landlords testified that, beyond the damage to the new unit and appliances, the tenant left the rental unit filthy. Both the landlords testified that cleaning the rental unit took approximately 4 days total. They sought compensation at a rate of \$20.00 per hour for 25 hours of cleaning.

The landlords sought a monetary award in the amount of \$3168.00 on their application. However, the amounts on their monetary worksheet totalled \$3218.13 and did not include the retention of the security deposit amount. The itemization of the landlord's monetary amounts sought is as follows,

Item	Amount
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Unpaid Rent – November 2015	\$837.43
Unpaid Rent – December 2015	837.43
2 trips to Dump with Tenant's garbage	82.00
Refrigerator repair	35.00
Oven cleaner, cleaning supplies, bathroom sink	158.85
Smoke alarm, Fire Extinguisher, repair supplies	76.00
Light bulbs	56.42
General Cleaning	1000.00
Less Security Deposit	-400.00
Recovery of Filing Fee for this Application	100.00
<b>Total Monetary Order Requested</b>	<b>\$2783.13</b>

Landlord KG testified that the tenant was given every opportunity to conduct a condition inspection at move-out: once prior to the end of the tenancy on December 22, 2015; once at the date the tenancy was scheduled to end – December 31, 2015; and opportunities after the end of tenancy. Landlord KG testified that the tenant was also given opportunities to return to complete repairs or cleaning herself but that she did not return. Landlord KG testified that the tenant did not provide a forwarding address.

### 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 (in this case, the landlord) bears the burden of proof. The landlord 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 tenant. Once that has been established, the landlord must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the evidence (testimonial and documentary) of the landlord to show that the tenant did not pay rent to the landlords in her final two months in the rental unit. Therefore, I find the landlords are entitled to recover **\$1674.84** in unpaid rent (2 months at \$837.43 each).

I accept the testimony and documentary evidence of the landlords that proves the landlords paid two invoices with respect to the dump trips totalling **\$82.00**. I find that the landlords are entitled to recover these dump fees from the tenant as they were incurred in an effort to rid the rental unit of the tenant's garbage and refuse after the end of the tenancy.

I accept the undisputed and sworn testimony of the landlords that the tenant removed all of the light bulbs from the rental unit. Therefore, I find the landlord is entitled to recover **\$56.42** to replace light bulbs in the rental unit. I also accept the landlords' testimony that the tenant removed the fire extinguisher and smoke alarm from the unit. I find that the landlord is entitled to recover **\$76.00** to replace the fire extinguisher and smoke alarm (as well as other repair supplies for the rental unit – discussed below).

I accept the landlords' testimony that the refrigerator drawers and handle were broken but that they did not repair them as they were unable to find parts to replace them. As they were unable to establish an actual monetary amount of loss for this item, I find that the landlords are entitled to a nominal amount representing the irreparable damage done (and therefore depreciation) to the refrigerator in the rental unit valued at **\$35.00**.

I accept the testimony and photographic evidence of Landlord RP and Landlord KG that they used items purchased at a home renovation store to repair most items broken thereby incurring a cost included in his receipt for a fire extinguisher and smoke alarm, as noted above.

I accept the testimony of the landlord as well as the documentary evidence (photographs) that the bathroom sink was cracked, requiring replacement at a cost of \$69.00 – a cost that was included in the landlords' **\$158.85** home renovation store receipt. That receipt also included cleaning materials for their work on the rental unit after the tenant vacated. Based on their undisputed testimony and based on the photographic evidence submitted, I find the landlords are entitled to 25 hours of house cleaning at \$20.00 per hour totalling **\$500.00**.

I find that the landlords suffered the monetary loss caused by the tenant and as outlined below. Given that the landlords have provided sufficient proof of the actual monetary loss suffered (itemized receipts) and that they took reasonable steps to minimize that loss (by repairing not replacing when able), I find that the landlords are entitled to a monetary order as follows,

<b>Item</b>	<b>Amount</b>
Unpaid Rent – November & December 2015	\$1674.84
2 trips to Dump with Tenant's garbage	82.00
Refrigerator depreciation/nominal amount	35.00
Oven cleaner, cleaning supplies, bathroom sink	158.85
Smoke alarm, Fire Extinguisher, repair supplies	76.00
Light bulb replacement – entire unit	56.42
General Cleaning	500.00
Less Security Deposit	-400.00
Recovery of Filing Fee for this Application	100.00
<b>Total Monetary Order</b>	<b>\$2283.11</b>

Pursuant to section 72 of the Act, I find the landlords are entitled to retain the tenant's \$400.00 security deposit towards the monetary award.

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

### Conclusion

I grant the landlord a monetary order in the amount of \$2283.11 against the tenant.

The landlord is provided with this Order in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this 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: April 3, 2017

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Residential Tenancy Branch