



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Sutton Hymark Realty  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND, MNR, MNSD, MNDC, FF

### Introduction

This is an amended application brought by the Landlord(s) requesting a monetary order in the amount of \$5548.27 and requesting recovery of the \$100.00 filing fee.

The applicant testified that the respondent(s) were served with notice of the hearing by registered mail that was mailed on November 4, 2016, and the respondents were served with the amended application by registered mail that was mailed on February 6, 2017; however the respondent(s) did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent(s) have been properly served with notice of the hearing, and the amended application, and I therefore conducted the hearing in the respondent's absence.

All testimony was taken under affirmation.

### Issue(s) to be Decided

The issue is whether or not the applicants have established monetary claim against the respondents, and if so in what amount.

### Background and Evidence

The applicant testified that this tenancy began on April 1, 2016, for a fixed term of one year, with a monthly rent of \$2275.00.

The applicant testified that the tenants paid a security deposit of \$1137.50, and the pet deposit of \$500.00, and that both were paid prior to the start of the tenancy.

The addendum to the original tenancy agreement states that the tenants agreed to pay \$1137.50 for the cost of the management fee if the lease is broken, and since this lease was broken the management company charge the landlord the \$1137.50 fee.

The applicant testified that the tenants vacated the rental unit prior to the end of the fixed term, and left the rental unit in need of significant cleaning and repairs. He further stated that he has supplied photo evidence of the damages and the need for cleaning, and has provided a quote for having that work done which totals \$845.60.

The applicant testified that the tenants were given two garage door openers at the beginning of the tenancy, however only one was returned.

The applicant testified that although unit was advertised for rent, right away, they were unable to re-rent the unit for the month of November 2016 and for the first half of December 2016.

The applicant testified that since they were having such difficulty attempting to re-rent it the owner move back into the rental unit on December 15, 2016

The applicant is therefore requesting a monetary order as follows:

Lease breaking fee	\$1137.00
November 2016 lost rental revenue	\$2275.00
December 2016 lost rental revenue	\$1137.00
Hydro utility while unit was vacant	\$35.57
Gas utility while unit was vacant	\$52.01
Repair damages and clean rental unit	\$845.60
Missing garage door opener	\$40.00
Registered mail costs to send application and evidence to tenants	\$25.10
Filing fee	\$100.00
Total	\$5647.28

The applicant is therefore requesting an order to retain the full security deposit of \$1137.50, plus the full pet deposit of \$500.00, and requested a monetary order be issued for the difference.

#### Analysis

It is my finding that the landlord has shown that the tenants breached the fixed term tenancy agreement and vacated well before the end of the lease.

It is also my finding that the tenants agreed to pay a fee of \$1137.00 if they breached the tenancy agreement, to cover the management costs paid to the management company.

It is also my finding that the landlord has shown that they attempted to re-rent the unit but were unable to re-rent the unit through the month of November 2016 and 1/2 of December 2016, and is my decision therefore that the tenants are liable for that lost rental revenue, and for utility costs while the unit was vacant.

It is also my finding that the landlord has clearly shown that the tenants left the rental unit in need of significant cleaning and repairs, and I therefore find that the tenants are liable for the quoted costs of that cleaning and repairs.

It is clear on the move-in inspection report to the tenants were given two garage door openers and I accept the landlords undisputed testimony that only one of those garage door openers was returned, and therefore the tenants are liable for the cost of replacing that garage door opener.

I will not allow the landlords claim however for the cost of registered mail for sending the application for dispute resolution and dispute documents to the tenants. This is a cost of the dispute resolution process and I do not have the authority to award costs, other than the filing fee. I will allow the landlords request however for recovery of the \$100.00 filing fee.

Therefore pursuant to sections 67 and 72 of the Residential Tenancy Act I have allowed the following amount:

Lease breaking fee	\$1137.00
November 2016 lost rental revenue	\$2275.00
December 2016 lost rental revenue	\$1137.00
Hydro utility while unit was vacant	\$35.57
Gas utility while unit was vacant	\$52.01
Repair damages and clean rental unit	\$845.60
Missing garage door opener	\$40.00
Filing fee	\$100.00
Total	\$5622.18

Conclusion

I have allowed \$5622.18 of the landlords claim and I therefore order that the landlords may retain the full security deposit of \$1137.50, and the full pet deposit of \$500.00, and I have issued a monetary order for the respondents to pay \$3984.68 to the applicants.

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: May 09, 2017

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Residential Tenancy Branch