



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes                      MNSD, MNR, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain 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 its application from the tenant, pursuant to section 72.

The hearing was conducted via teleconference and was attended by the landlord. No one was in attendance on behalf of the tenant. The landlord submitted documentary evidence that the tenant was served notice of this application and this hearing by registered mail on December 2, 2016. Canada Post tracking information was submitted in the landlord's evidence. Based on the submissions of the landlord, I find the tenant was deemed served notice of this proceeding on December 7, 2016, pursuant to section 90 of the *Act*. Therefore, I continued in the absence of the tenant.

### Issue to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background, Evidence

The landlord's undisputed testimony is as follows. The tenancy began on October 1, 2016 and ended on October 31, 2016. The tenancy was to be for a fixed term of one year however the tenant moved out on October 31, 2016 without giving any notice. The tenants were obligated to pay \$950.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$450.00 security deposit. The landlord testified that the tenant was also responsible for the

utilities. The landlord testified that due to the lack of notice the landlord is seeking the loss of revenue for November 2016, the unpaid utilities bill of \$127.71 and the recovery of the \$100.00 filing fee for a total claim of \$1127.71

### Analysis

While I have turned my mind to all the documentary evidence and the testimony of the landlord, not all details of their submissions and arguments are reproduced here. The principal aspects of the landlord's claim and my findings around each are set out below.

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.

The landlord provided documentation to support his claim. Based on the documentation before me and in the absence of any disputing evidence from the tenant, I find that the landlord has been successful in their claim.

### Conclusion

The landlord has established a claim for \$1127.71. I order that the landlord retain the deposit of \$450.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$677.71. This order may be filed in the Small Claims 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: May 31, 2017

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Residential Tenancy Branch