



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HOMELIFE PENINSULA PROPERTY MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes            MNR MND MNDC MNSD O 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 damage to the unit pursuant to section 67; authorization to retain all or a portion of the tenants' 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 tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 1:40 pm in order to enable the tenants to connect with this teleconference hearing scheduled for 1:30 pm. The landlord's representative ("the landlord") attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions.

The landlord testified that the tenants were served by registered mail. The landlord submitted registered mail receipts to provide evidence to support her testimony. As the receipts indicated a mailing date of April 26, 2017 and the landlord provided the tracking information to confirm that the tenants had received the materials, I find that the tenants were deemed served in accordance with section 89 and 90 of the Act on May 1, 2017 (5 days after the registered mailing).

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and other financial loss?  
Is the landlord entitled to authorization to retain all or a portion of the tenants' security deposit?  
Is the landlord entitled to recover the filing fee for this application?

### Background and Evidence

The landlord submitted a copy of a lease (residential tenancy agreement) that indicated the tenancy began on April 1, 2016 and continued for a 1 year term scheduled to end on March 31, 2017. The rental amount of \$2550.00 was payable on the first of each month. The tenants

vacated the rental unit on March 31, 2017. The landlord continues to retain a \$1247.60 security deposit paid by the tenants at the outset of the tenancy (March 4, 2016). The landlord sought to retain the security deposit towards a total monetary order of \$2343.50.

The landlord testified that the tenants provided her with their forwarding address on April 5, 2017 by email. The landlord testified that she had made efforts to speak to the tenants after the end of the tenancy however that tenants have not been communicative.

The landlord testified that the tenants left an outstanding utility (water) bills of which their portion totalled \$1142.50. She submitted copies of the bills to verify the timeline and the amounts as well as their accounting ledger for the rental unit(s).

The landlord testified that the tenant was responsible for a city fine levied against the tenants for failing to clear snow at the residence. She referred to the tenancy agreement that indicates the tenants are responsible for snow clearing. Further, she submitted a copy of the city fine and a letter sent to the tenants from the landlords during the course of the tenancy asking the tenants to pay the \$50.00 fine.

The landlord testified that, as a result of a late payment of rent by the tenants, the landlord should recover \$50.00 as a late fee in accordance with the provisions of their written tenancy agreement.

The landlord testified that the rental unit required cleaning. The condition inspection report clearly outlines both necessary cleaning as well as some repairs to the unit at the end of the tenancy. The landlord testified that the floors/carpets needed cleaning. The landlord submitted a receipt for \$202.50 to have the carpets/floors cleaned. The tenant signed the condition inspection report at the end of the tenancy.

The landlord submitted that, on the basis of the state of the unit as described in the condition inspection report, the landlord had other costs including rubbish removal that they have chosen not to claim.

### 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. The party claiming the damage or loss (the landlord in this case) 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 filed to retain the tenants' security deposit and recover for rental loss as well as damage in accordance with the *Act*. Section 38 requires a landlord to file an application within

15 days of receiving the tenant's forwarding address in writing. In this case, the landlord has, as of the date of this hearing, not received the tenant's address in the manner required.

Regardless, the landlord has acted within 15 days of receipt of the tenant's address provided via email. Therefore, I find that the landlord is entitled to retain all of the tenants' security deposit towards her monetary order as calculated below.

The landlord provided testimony that the tenants are responsible for \$1142.50 in outstanding utility bills. She provided undisputed copies of the water bill to verify that these costs were incurred during the course of the tenancy as well as to verify the amounts owed by the tenants. I find that the landlord has proved the tenants' obligation to pay a portion (\$1142.50) of the water bill.

The landlord provided evidence (a copy of the fine and the residential tenancy agreement showing the tenants' obligation to clear snow) of a city fine levied against the tenants. I accept her undisputed testimony as well as the documentary evidence submitted to prove the responsibility of the tenants for the \$50.00 fine.

The landlord provided undisputed testimony and documentary support regarding rental payments made late by the tenants. The residential tenancy agreement includes a provision for a \$50.00 late fee to the landlords. The Residential Tenancy Policy Guidelines allow for a late fee or other similar administration fees to a maximum amount of \$25.00. Therefore, the landlord is entitled to recover a \$25.00 in late fees from the tenants. I provide the portion of the Residential Tenancy Regulations as clarification of the reason for the reduction in this fee.

**7 (1)** A landlord may charge any of the following non-refundable fees:

...(c) a service fee charged by a financial institution to the landlord for the return of a tenant's cheque;

(d) subject to subsection (2), an administration fee of not more than \$25 for the return of a tenant's cheque by a financial institution or for late payment of rent...

I find that the landlord provided sufficient evidence of their costs for clean-up in the form of undisputed testimony and documentary evidence, particularly the condition inspection report as well as invoices for cleaning and repair work done at the end of this tenancy. The landlord provided several invoices showing the cost of removing certain items from the residence as well as repairing and replacing broken or damaged items. I am satisfied, based on the condition inspection report, that these repairs were required.

The landlord's total amount for rubbish removal and repairs totals \$598.50. I find that the tenants failed to clean the rental unit at the end of the tenancy or clean the carpets professionally as required by the Act and the tenancy agreement. Therefore, the landlord is entitled to recover the cost of cleaning the unit at \$240.00, rubbish removal at \$598.00 and the

cost of cleaning the carpet at \$202.50.

Item	Amount
Tenants' portion of water bill	\$1142.50
City Fine for snow removal	50.00
Late payment fee	25.00
Cleaning Rental Unit	240.00
Rubbish removal, repairs	598.00
Carpet cleaning	202.50
Less Security Deposit	-1247.60
Recovery of Filing Fee for this Application	100.00
<b>Total Monetary Order to Landlord</b>	<b>\$1110.40</b>

As the landlord was successful in her application, I find that the landlord is entitled to recover the filing fee for this application.

#### Conclusion

I issue a monetary award to the landlord in the amount of \$1110.40.

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: September 26, 2017

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Residential Tenancy Branch