



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

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

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the landlord served the tenant with the notice of hearing package and the submitted documentary evidence in person on September 1, 2017. The landlord also served the tenant with 2 additional documentary evidence packages, which the tenant confirmed receiving. The landlord stated 1 package was not served to the tenant as it relates to a proof of service document in which a witness was present and has provided a statement as proof the tenant was served on February 27, 2018. The tenant confirmed service of these packages. The tenant stated that the landlord was served with 2 documentary evidence packages via Canada Post Registered Mail. The landlord confirmed receipt of these packages. I accept the undisputed affirmed evidence of both parties and find that both parties have been sufficiently served as per sections 88 and 89 of the Act.

During the hearing the landlord cancelled item #2 (3 additional keys @\$14.38) of the landlord's claim from the submitted monetary worksheet dated September 1, 2017..

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.

Both parties agreed that this was a verbal agreement for tenancy which began on February 1, 2015 on a month-to-month basis. The monthly rent began at \$900.00 which later became \$933.33 as per the submitted copy of a notice of a rent increase dated April 1, 2017. A security deposit of \$450.00 was paid. No condition inspection reports for the move-in or the move-out were completed by either party. Both parties agreed that the tenancy ended on August 29, 2017 when possession of the rental unit as returned to the landlord.

The landlord seeks an amended monetary claim of \$1,230.33 which consists of:

|          |                                       |
|----------|---------------------------------------|
| \$140.00 | Lock Re-Keying and 2 keys             |
| \$930.33 | Loss of Rental Income, September 2017 |
| \$60.00  | Cleaning                              |
| \$100.00 | Filing Fee                            |

The landlord claims that the tenant gave a key to the rental unit to a third party without notice or consent of the landlord. The landlord claims that the tenant's boyfriend moved in without the landlord's consent. The landlord also claims that the tenant vacated the rental unit without proper 1 month notice and the landlord was unable to re-rent the premises. The landlord stated that upon being notified on August 28, 2017, the landlord immediately advertised the unit for rent for September 1, 2017. The landlord stated that because of a pre-planned vacation that began on September 1, 2017 the rental unit was not successfully re-rented until November 2017.

The landlord has provided in support of these claims:

A signed copy of the tenant's notice to vacate on August 31, 2017 dated August 25, 2017

A copy of a letter dated August 29, 2017 responding to tenant's notice

A copy of a print out of an online receipt for re-keying the lock and 2 keys for \$140.00 dated August 29, 2017

A copy of a receipt dated August 29, 2017 for 3 keys for \$12.84, plus tax

A copy of a notice of a rent increase dated December 18, 2016 for new rent of \$933.30 to begin on April 1, 2017

A copy of a handwritten receipt dated October 6, 2017 for "move-out" cleaning for \$84.00

The argued that the re-keying of the locks was the landlord's obligation in any new tenancy, but agreed that her extra key was given to her guest without the landlord's consent or notice. The tenant confirmed that notice to end the tenancy on August 31, 2017 was given to the landlord on August 28, 2017. The tenant disputes the landlord's claim for cleaning stating that the rental was left clean and rentable. The tenant has referred to her photographic evidence which she states shows the condition of the rental unit at the end of tenancy.

In support of the tenant's arguments, the tenant has provided 23 photographs of the rental premises showing the condition of the rental unit at the end of tenancy.

### 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.

I accept the submissions and evidence provided by both parties and find on a balance of probabilities that the landlord has established a claim for:

|          |                                       |
|----------|---------------------------------------|
| \$140.00 | Lock Re-Keying and 2 keys             |
| \$930.33 | Loss of Rental Income, September 2017 |

Both parties provided undisputed affirmed testimony that the tenant provided a key to a third party without notice or consent of the landlord. I find in the circumstances that the landlord is entitled to recovery of costs for re-keying the locks of \$140.00. The tenant also confirmed that she failed to provide 1 months' notice to end the tenancy. The tenant confirmed that notice was not provided to the landlord until August 28, 2017 for August 31, 2017. The tenancy ended on August 29, 2017. The landlord also provided undisputed testimony that upon being notified she immediately advertised the rental unit for September 1, 2017, but due to a pre-planned vacation that began on September 1, 2017 she was unable to re-rent the premises until November 2017. The landlord has established a claim for loss of rental income of \$930.33.

On the landlord's disputed claim of \$60.00 for cleaning, I find in reviewing the submitted photographs of both parties that the landlord has provided sufficient evidence that the rental premises was left dirty requiring cleaning. I note that the primary areas of concern were the kitchen and the bathroom areas. The tenant's photographs show a generally clean premises, but lacks the details shown in the landlord's submitted photographs. The landlord's photographs clearly show dusty areas, scuffed walls, a dirty oven and dirty tiles in the bathroom. As such, I find on a balance of probabilities that I prefer the evidence of the landlord over that of the tenant. The landlord is entitled to recovery of the \$60.00 claim for cleaning based upon the \$84.00 receipt.

The landlord having been successful in her entire claim is entitled to recovery of the \$100.00 filing fee.

It was noted in the hearing that a condition inspection report for the move-in and the move-out were not completed and that this should extinguish the landlord's right to make a claim against the \$450.00 security deposit. However, as the landlord still currently holds the \$450.00 security deposit, I authorize the landlord in offsetting her claim to retain this amount in partial satisfaction of the successful claim of \$1,230.33.

### Conclusion

The landlord is granted a monetary order for \$780.33.

This order must be served upon the tenant. Should the tenant fail to comply with the order, the 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: March 14, 2018

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Residential Tenancy Branch