



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes                      MNR, MND, MNDC, MNSD, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlords seeking a monetary order for unpaid rent or utilities; a monetary order for damage to the unit, site or property; a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; an order permitting the landlords to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenants for the cost of the application.

Both landlords attended the hearing, one of whom gave affirmed testimony. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenants attended. The landlord testified that the tenants were served with the Landlord's Application for Dispute Resolution and notice of this hearing by registered mail on September 19, 2018 at the forwarding address provided in writing by the tenants, and have provided copies of Registered Domestic Customer Receipts addressed to each of the tenants stamped by Canada Post bearing that date. , The landlords have also provided a Canada Post Tracking print-out for each of two registered mail packages showing that the tenants were served on March 21, 2018 and signed for the packages on March 23, 2018 which the landlord testified contained additional evidence. I am satisfied that both tenants have been served in accordance with the *Residential Tenancy Act*.

All evidence provided has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

- Have the landlords established a monetary claim as against the tenants for unpaid rent?
- Have the landlords established a monetary claim as against the tenants for damage to the unit, site or property?
- Have the landlords established a monetary claim as against the tenants for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?
- Should the landlords be permitted to keep all or part of the pet damage deposit or security deposit in full or partial satisfaction of the claim?

### Background and Evidence

The landlord testified that this tenancy began on February 1, 2016 and ended on August 23, 2017. Rent in the amount of \$1,400.00 per month was payable on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlords collected a security deposit from the tenants in the amount of \$700.00 which is still held in trust by the landlords. The tenants were also required to pay a \$500.00 pet damage deposit once they obtained a pet but the landlords only received \$200.00, which also remains in trust with the landlords. The rental unit is suite within the landlords' home, and a copy of the tenancy agreement has been provided for this hearing.

The landlord further testified that the tenants failed to pay rent when it was due for August, 2017 and the landlords served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a copy of which has been provided as evidence for this hearing. It is dated August 10, 2017 and contains an effective date of vacancy of August 10, 2017 for unpaid rent in the amount of \$1,400.00 that was due on August 1, 2017. The tenants paid \$300.00 on August 2 and \$1,000.00 on August 4. Another e-transfer was made for the remaining \$100.00 on August 5, 2017 but the tenants cancelled it, and \$100.00 remains outstanding, which the landlords claim as against the tenants.

The landlords have also provided a move-in and a move-out condition inspection report, and the landlord testified that the tenants were present for the move-in portion, but not the move-out portion despite attempts to schedule it. The landlords have provided a copy of a letter to the tenants setting out 2 dates after the tenants failed to show for the agreed upon date, but the landlord did not hear back from the tenants. On August 22, 2017 the landlord posted a Final Opportunity to Schedule a Condition Inspection to the door of the rental unit proposing 8:00 p.m. on August 23, 2017. A copy has been provided for this hearing. The tenants did not attend and the landlord completed the report.

The landlords have also provided a Monetary Order worksheet setting out the following claims totaling \$1,370.91:

- \$100.00 outstanding rent for August 2017;
- \$245.00 for carpet cleaning/pet stains/stains;
- \$100.00 for filing fee;
- \$242.00 for clean up and pet damage;
- \$52.89 for light bulbs;
- \$20.92 for kitchen knobs;
- \$210.00 for bathroom tile repair;
- \$300.00 for pet deposit remainder; and
- \$100.00 for carpenter services for damage repairs.

The landlord believes the house was built in 2012, and receipts have been provided for the carpet cleaning, clean up, light bulbs, kitchen knobs, bathroom tile repair and carpenter services. The

landlord also testified that the tenants didn't return the keys to the rental unit, and the landlords' application also claims the cost of replacing the locks to the rental unit, but no receipt has been provided.

The landlords received an undated letter from the tenants, a copy of which has been provided for this hearing setting out a forwarding address and a request for return of the security deposit. A copy of the envelope it arrived in has also been provided and it is post marked September 8, 2017.

### Analysis

Firstly, I accept the undisputed testimony of the landlord that the tenants cancelled the final rent payment of \$100.00 and the landlords have established that claim.

In order to be successful in a claim for damage or loss, the onus is on the claiming party to satisfy the 4-part test:

1. that the damage or loss exists;
2. that the damage or loss exists as a result of the other party's failure to comply with the *Act* or the tenancy agreement;
3. the amount of such damage or loss; and
4. what efforts the claiming party made to mitigate any damage or loss suffered.

The *Act* also states that the condition inspection reports are evidence of the condition of the rental unit at move-in and move-out, and a tenant is required to leave a rental unit reasonably clean and undamaged except for normal wear and tear at the end of a tenancy. I have reviewed the evidentiary material provided by the landlords, and I am satisfied that the landlords have complied with the *Residential Tenancy Act* and the regulations with respect to move-in and move-out condition inspection reports. I have compared those reports to the landlords' claims and have reviewed the receipts provided, and I am satisfied that the landlords have satisfied the test for damages with respect to:

- \$245.00 for carpet cleaning/pet stains/stains;
- \$242.00 for clean up and pet damage;
- \$52.89 for light bulbs;
- \$20.92 for kitchen knobs;
- \$210.00 for bathroom tile repair; and
- \$100.00 for carpenter services for damage repairs.

Although the landlords requested a larger pet damage deposit than they received, that money belongs to the tenants, and to order the tenants to pay it after the tenancy ends is contrary to the law, and I dismiss that portion of the landlords' application.

I also find that the tenants provided a forwarding address by regular mail on September 8, 2017 which is deemed to have been received 5 days later, and the landlords filed the application for dispute resolution claiming against those deposits on September 19, 2017. Therefore, the landlords have applied to keep the deposits within 15 days as required by the *Act*.

Since the landlords have been partially successful with the application, the landlords are also entitled to recovery of the \$100.00 filing fee.

Having found that the landlords have established a claim totaling \$1,070.81, I order the landlords to keep the \$700.00 security deposit and the \$200.00 pet damage deposit in partial satisfaction of the claim, and I grant a monetary order in favour of the landlords as against the tenants for the difference in the amount of \$170.81.

### Conclusion

For the reasons set out above, I hereby order the landlords to keep the \$700.00 security deposit and the \$200.00 pet damage deposit and I grant a monetary order in favour of the landlords as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$170.81.

This order is final and binding and may be enforced.

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 12, 2018

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Residential Tenancy Branch