



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FFL, MNDCL

### Introduction

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

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

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

### Issue to be Decided

Is the landlord entitled to a monetary award for loss arising out of this tenancy?

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

### Background, Evidence

The landlord's agent's testimony is as follows. The tenancy began on May 15, 2016 and ended on May 1, 2017. The tenants were obligated to pay \$800.00 per month in rent. The agent testified that the home was heated by propane and that part of the tenancy agreement states that the tenant is responsible for refilling the tank at the end of the tenancy. The agent testified that the tenant did not fill the tank and that the landlord incurred a cost of \$279.93 to fill it. The agent testified that they seek the recovery of that cost along with the \$100.00 filing fee.

The tenant gave the following testimony. The tenant testified that the tenancy agreement stated that the propane was included and that there isn't a clause requiring the tenants to fill the tank at the end of the tenancy.

### Analysis

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 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 provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

The landlord is the applicant in this matter and bears the burden of proving their claim. The landlord did not submit the documentation that they allege requires the tenant to fill the tank at the end of the tenancy. In addition, the tenant provided a document that shows that the wood stove and propane tank were included as part of the tenancy. Based on the above, the disputing documentation of the tenant, I find that the landlord has not provided sufficient evidence to prove their claim on a balance of probabilities.

The landlord has not been successful.

#### Conclusion

The landlords' application is dismissed in its entirety without leave to reapply.

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 29, 2018

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Residential Tenancy Branch