



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPREIT LP  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDCLS FFL

### Introduction

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

- a Monetary Order for damages and loss pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this teleconference hearing, which lasted approximately 10 minutes. The line remained open throughout the hearing. The corporate landlord was represented by its agent DD (the "landlord") who was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the landlord's application for dispute resolution dated November 10, 2017 was sent to the tenant at the forwarding address they provided by registered mail on November 17, 2017. The landlord provided a Canada Post tracking number as evidence of service. Based on the undisputed evidence, I find that the tenant was deemed served with the landlord's application for dispute resolution and evidence package in accordance with sections 88, 89 and 90 of the Act on November 22, 2017, five days after mailing.

### Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

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

### Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This fixed-term tenancy began in September, 2017 and was scheduled to end in August, 2018 but ended at October 31, 2017. The monthly rent was \$1,200.00 payable on the first of each month. A security deposit of \$600.00 was paid at the start of the tenancy. The tenancy agreement provides that the landlord may charge liquidated damages for the cost of re-renting the unit of \$600.00 if the tenant ends the fixed term tenancy before its full term.

A condition inspection report was prepared both at the start and end of the tenancy with both parties present. The landlord assessed the cost of cleaning at the end of the tenancy to be \$65.00. The tenant disagreed with the assessment and did not provide written authorization that the landlord may retain that amount from the security deposit.

### Analysis

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. 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 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 claimant also has a duty to take reasonable steps to mitigate their loss.

The landlord provided undisputed evidence at this hearing as the tenant did not attend despite being served in accordance with the *Act*. I find that pursuant to the written tenancy agreement the landlord is entitled to charge liquidated damage for the cost of re-renting the suite. I find that this clause is a genuine estimate of the costs of re-renting and not a penalty clause. .

I accept the landlord's evidence that the cost of cleaning for the rental unit was \$65.00. I accept the landlord's testimony that some cleaning was required for the rental unit regardless of the short duration of the tenancy.

Accordingly, I find that the landlord is entitled to a \$665.00 monetary award in accordance with section 67 of the *Act*. .

As the landlord's application was successful, the landlord is entitled to recover the \$100.00 filing fee for the cost of this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's \$600.00 security deposit in partial satisfaction of the monetary award issued in the landlord's favour.

### Conclusion

I issue a monetary order in the landlord's favour in the amount of \$165.00 under the following terms:

Item	Amount
Liquidated Damages	\$600.00
Cleaning Costs	\$65.00
Filing Fees	\$100.00
Less Security Deposit	-\$600.00
<b>Total Monetary Order</b>	<b>\$165.00</b>

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: June 20, 2018

---

Residential Tenancy Branch