



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding REMAX MANAGEMENT SOLUTIONS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FFL MNDCL-S MNDL-S MNRL-S

### Introduction

This hearing was scheduled to convene at 1:30 p.m. on July 17, 2018 by way of conference call concerning an application made by the landlords seeking a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; a monetary order for damage to the unit, site or property; a monetary order for unpaid rent or utilities; 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 tenant for the cost of the application.

The landlords were represented at the hearing by an agent who gave affirmed testimony. However, the line remained open while the phone system was monitored for 15 minutes prior to hearing any testimony and no one for the tenant joined the call. The landlords' agent testified that the tenant was served with the landlords' application, notice of this hearing, and evidentiary material by registered mail on April 12, 2018. The mail was returned marked "unclaimed" with a handwritten note stating that "Unit A or B" was required on the address. The landlords' agent contacted the Residential Tenancy Branch and was advised to re-send it immediately with the unit alpha, which he did. The landlords' agent was also concerned about making the application within 15 days of receiving the tenant's forwarding address. That package was also returned marked "Unclaimed," however the landlords have received evidentiary material from the tenant on July 10, 2018.

The landlord was given the opportunity to provide evidence of service after the hearing concluded. I have now received a copy of a Canada Post cash register receipt bearing the date April 12, 2018 as well as a Registered Domestic Customer Receipt bearing a Canada Post Tracking Number.

The *Residential Tenancy Act* requires that:

**59** (2) An application for dispute resolution must

- (a) be in the applicable approved form,
  - (b) include full particulars of the dispute that is to be the subject of the dispute resolution proceedings, and
  - (c) be accompanied by the fee prescribed in the regulations.
- (3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.

The tenant filed the evidentiary material with the Residential Tenancy Branch on July 9, 2018 and provided a copy to the landlord on July 10, 2018. Given that the Residential Tenancy Branch and the landlords have received evidence for this hearing, uploaded to the Residential Tenancy Branch on-line case management system, I am satisfied that the tenant is aware of the hearing, and a different period should be specified. I grant the landlords additional time, and deem the tenant to have been served in accordance with the *Residential Tenancy Act*.

#### Issue(s) to be Decided

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

#### Background and Evidence

The landlords' agent testified that this fixed term tenancy began on May 1, 2017 and was to expire on April 30, 2018, however the tenant vacated sometime at the end of February, 2018. Rent in the amount of \$1,500.00 per month was due on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$750.00 which is still held in trust by the landlords, and no

pet damage deposit was collected. The rental unit is a basement suite and a copy of the tenancy agreement has been provided as evidence for this hearing.

The landlords' agent further testified that one of the occupants in the rental unit sent an email to the landlords' agent about moving out, and the landlords' agent replied stating that notice had to be provided by the tenant. The landlords' agent thought they would move out at the end of the fixed term, and the landlords posted advertisements to re-rent for May 1, 2018. However, the landlords' agent went to the rental unit on February 28, 2018 for the first showing to prospective renters, and found the rental unit vacant. The landlords re-advertised and the rental unit was re-rented for April 1, 2018.

Condition inspection reports were completed at move-in and at move-out, however the tenant did not attend for the move-out condition inspection. The landlords' agent posted a Final Opportunity to conduct the inspection on March 2, 2018, and a copy has been provided for this hearing. The landlords' agent completed the move-out condition inspection report on March 12, 2018 in the absence of the tenant or any occupants and took photographs. The inspection reports and a photograph have been provided as evidence for this hearing.

The landlords received an email from the tenant on March 28, 2018 which contained the tenant's forwarding address, however the tenant has not served the landlords with an Application for Dispute Resolution claiming the security deposit.

The landlords have provided a Monetary Order Worksheet setting out the following claims:

- \$45.00 removal of broken vanity counter/sink;
- \$402.02 for installation of vanity;
- \$165.90 for plumbing repairs;
- \$1,500.00 for March, 2018 rent;
- \$625.00 for liquidated damages;
- \$124.48 for the Fortis Electric bill;
- \$100.10 for the Fortis Gas bill;
- \$185.77 for the Irrigation District bill; and
- \$267.50 for the cost of cleaners.

Receipts and invoices have been provided as evidence for this hearing, including for batteries for the smoke detector and cutting a new key. The landlords' agent testified that the tenant did not leave a key when she moved out. The invoice for removal of the broken

vanity counter and sink totals \$90.00, however the landlords' agent testified that half of that invoice is for repairs that were not the responsibility of the tenant.

The tenant or an occupant flushed a spring down the toilet which was found by the plumber, and was acknowledged by an occupant.

The tenancy agreement provides for liquidated damages in the amount of \$625.00 if the tenant vacates earlier than the end of the fixed term.

The landlords' agent also testified that the tenant in that rental unit was to pay 40% of all utilities, and copies of gas, electricity and water bills have been provided as evidence for this hearing.

The landlords claim a total of \$3,415.77; recovery of the \$100.00 filing fee; and order permitting the landlords to keep the \$750.00 security deposit.

### Analysis

I have reviewed the tenancy agreement, and it is clear that the parties entered into a fixed term contract to expire on April 30, 2018, and if the tenant vacated earlier, liquidated damages would apply. I accept the undisputed testimony of the landlords' agent that the tenant moved out at the end of February, 2018 without paying rent for March, 2018, and the landlord was successful in re-renting for April 1, 2018. I find that the landlord has established the claims of \$1,500.00 for unpaid rent and \$625.00 for liquidated damages.

I also accept the undisputed testimony of the landlords' agent that the tenant's share of utilities was 40%. I have reviewed the utility bills, and I am satisfied that the landlords have established a claim of \$124.48 for the electric bills and \$100.10 for the gas bills. However it appears that the landlords have miscalculated one of the water bills at 50%, and I find that the landlords have established a claim of \$165.32.

I have also reviewed the move-in and move-out condition inspection reports as well as the invoices provided as evidence, and I am satisfied that the landlords have established the claims totaling \$612.92 for damage or loss. However, the move-in condition inspection report indicates that the rental unit was not clean at the beginning of the tenancy, and I dismiss the landlords' claim of \$267.50 for cleaning at the end of the tenancy.

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

I order the landlords to keep the \$750.00 security deposit in partial satisfaction of the claims and I grant a monetary order in favour of the landlords for the difference, in the amount of \$2, 477.82.

Conclusion

For the reasons set out above, I hereby order the landlords to keep the \$750.00 security deposit and I grant a monetary order in favour of the landlords as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$2,477.82.

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: July 23, 2018

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Residential Tenancy Branch