



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

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

### Introduction

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

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

The hearing was conducted via teleconference and was attended by the landlord. No one was in attendance on behalf of the tenants. The landlord submitted documentary evidence that the tenants were served notice of this application and this hearing by registered mail on March 15, 2018. Canada Post tracking information was submitted in the landlord's evidence. Based on the submissions of the landlord, I find the tenants were duly served notice of this proceeding on March 15, 2018, pursuant to section 89 of the *Act*. Therefore, I continued in the absence of the tenants.

### Issue to be Decided

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

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

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

### Background, Evidence

The landlord's undisputed testimony is as follows. The fixed term tenancy began on April 16, 2016 and was to end on April 30, 2017, however it ended early on January 17, 2017. The tenants were obligated to pay \$1500.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$750.00 security deposit. LB testified that he became aware that the tenant had abandoned the unit on January 17, 2017. LB testified that the unit was left dirty and with some minor damage to it. LB testified and provided documentation to support the claim that the tenant damaged a drawer, a range top, didn't clean the suite or carpets, and did not return keys or fobs, left without paying their hydro or strata fines or bank fees incurred by the landlord for cheques returned with insufficient funds. The landlord testified that despite numerous attempts to track down the tenant and her parents to resolve the matter, the tenant cut off all communication. LB testified that the tenant "broke the lease". LB testified that he made all efforts to mitigate the loss and was able to rent the unit for April 1, 2017. MB testified that the unit was brand new when the tenants moved in.

The landlord is applying for the following:

1.	Unpaid Rent January 2017-March 2017	\$4500.00
2.	Cleaning, damages, miscellaneous	1513.75
3.	Filing Fee	100.00
4.	Minus Deposit	-750.00
5.		
6.		
	Total	<b>\$5363.75</b>

### 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 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 provided extensive documentation, condition inspection reports, undisputed testimony, receipts and photos to support their application. The landlord has provided sufficient evidence to support their claim of \$6113.75.

### Conclusion

The landlord has established a claim for \$6113.75. I order that the landlord retain the \$750.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$5363.75. This order may be filed in the Small Claims 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: October 01, 2018

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Residential Tenancy Branch