



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FFL, 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 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
- an order authorizing the landlord the recovery of the filing fee for this 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 April 9, 2018. Canada Post tracking information was submitted in the landlord's evidence that shows that the item was unclaimed by the tenants. Based on the submissions of the landlord, I find the tenants were served in accordance 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 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 the recovery of the filing fee?

### Background, Evidence

The landlord's undisputed testimony is as follows. The tenancy began on April 1, 2016 and ended on February 28, 2018. The tenant was obligated to pay \$1500.00 per month in rent in advance and at the outset of the tenancy the tenant paid a \$750.00 security deposit which the landlord still holds. The landlord testified that the tenant contacted her on February 15, 2018 and advised that they would be moving out by February 28, 2018. The landlord testified that the tenant left the unit with some minor damage and dirty at move out. The landlord testified due to the short notice of the tenant, they were unable to rent the unit for March 1, 2018 and incurred a loss of revenue of \$1500.00. The landlord is applying for the following:

1.	Loss of Rent for March 2018	\$1500.00
2.	Damages and Cleaning	750.00
3.	Filing Fee	100.00
4.		
5.		
6.		
7.		
8.		
9.		
10.		
	Total	<b>\$2350.00</b>

The landlord testified that although their total loss is \$2350.00, they don't believe they will be able to recover any of the money from the tenants and are content with being awarded the security deposit.

### 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, undisputed testimony, receipts and photos to support their application. As noted above, the landlord only seeks to retain the security deposit. I find that the landlord is entitled to retain the security deposit.

Conclusion

I order that the landlord retain the \$750.00 security deposit in full satisfaction of the claim

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 02, 2018

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Residential Tenancy Branch