



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCL-S, MNDL-S, FFL

### Introduction

This hearing was scheduled in response to the landlord's application pursuant to the *Residential Tenancy Act* (the "*Act*") for:

- a monetary order for damage to the rental unit, and 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 this application from the tenant pursuant to section 72.

The tenant did not participate in the conference call hearing, which lasted approximately 10 minutes. The landlord's agent (the "landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed she was an agent of the landlord's company named in this application, and had authority to speak on its behalf.

The landlord testified that on August 24, 2018 she forwarded the landlord's application for dispute resolution and supporting documents via registered mail to the tenant. Based on the testimony of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been deemed served with the application and supporting documents on August 29, 2018, the fifth day after their registered mailing.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement?

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

### Background and Evidence

The landlord testified that this tenancy began on May 1, 2017 on a fixed term until October 31, 2017 at which time the tenancy continued on a month-to-month basis. Rent in the amount of \$1,355.00 was payable on the first of each month. The tenant remitted a security deposit in the amount of \$600.00 at the start of the tenancy, which the landlord still retains in trust. The tenant vacated the rental unit on August 4, 2018.

The landlord seeks compensation in the amount of \$2,465.00, including the following;

Item	Amount
Kitchen Counter	\$735.00
Cleaning & Repair Labour	\$375.00
Loss of Rent	\$1,355.00
Total Claim	\$2,465.00

The landlord also seeks to recover the \$100.00 filing fee for this application from the tenant.

### Analysis

Under section 67 of the *Act*, when a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. To prove a loss, the applicant must satisfy the test prescribed by Section 7 of the *Act*. The applicant must prove a loss actually exists and prove the loss happened solely because of the actions of the respondent in violation to the *Act*. The applicant must also verify the loss with receipts and the applicant must show how they mitigated or what reasonable efforts they made to minimize the claimed loss.

Section 37 of the *Act*, establishes that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Regulation* or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

Based on the undisputed testimony of the landlord, the condition inspection reports, and the invoice before me, I find that the tenant left the rental unit contrary to section 37(2) of the *Act*. Accordingly, I find that the landlord is entitled to compensation in the amount of \$735.00 for kitchen counter replacement and \$375.00 in labour.

Under section 45 of the *Act*, a tenant must give written notice to end a periodic tenancy. I accept the landlord's undisputed testimony that the tenant failed to give written notice prior to ending the tenancy on August 4, 2018 and therefore award the landlord loss of rent in the amount of \$1,355.00.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee for a total award of \$2,565.00. In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the security deposit in the total amount of \$600.00 in partial satisfaction of the monetary award and I grant an order for the balance due \$1,965.00.

### Conclusion

The landlord is entitled to \$2,565.00. I order the landlord to retain the \$600.00 security deposit in partial satisfaction of the monetary award and I grant an order for the balance due \$1,965.00.

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: December 18, 2018

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Residential Tenancy Branch