



# Dispute Resolution Services

Page: 1

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* ("the *Act*") for:

- a monetary order for unpaid rent, pursuant to section 67;
- a monetary order for money owed or compensation monetary loss or money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

While the landlord attended the hearing by way of conference call, the tenants did not. I waited until 1:40 p.m. to enable the tenant to participate in this scheduled hearing for 1:30 p.m. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the tenants were both served with the landlord's application for dispute resolution hearing package ('Application') and evidence on October 10, 2018 by way of registered mail. The landlord provided the tracking information for both packages. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's application and evidence on October 15, 2018, five days after its registered mailing.

### **Issue(s) to be Decided**

Is the landlord entitled to monetary compensation for unpaid rent and losses?

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

### **Background and Evidence**

This fixed-term tenancy began on January 1, 2017. Monthly rent was set at \$1,000.00, payable on the 1st day of each month. The landlord collected a security deposit of \$500.00 which the landlord still holds.

The tenants were served with a 10 Day Notice for Unpaid Rent on August 8, 2018, and moved out on the effective date: August 18, 2018. The landlord testified that although no move-in or move-out inspection reports were completed, a walk through was done at the beginning of the tenancy.

The landlord testified that the tenants moved out on August 18, 2018, and simply left the keys in the mail box and informed the landlord by way of text message. The landlord testified that the tenants failed to leave the home in reasonably clean and undamaged condition, and is requesting monetary compensation as follows:

Unpaid Rent	\$2,545.00
New Bedroom Door	50.40
Cleaning & Garbage Removal	320.00
Cleaning Supplies	26.88
Cleaning Supplies	31.23
Shower Curtain	18.42
Auto Drain Tool for clogged bathroom sink	16.79
<b>Total Monetary Award Requested</b>	<b>\$3,008.72</b>

The landlord provided a detailed spreadsheet of the rent owing for this tenancy. The landlord testified that the tenants broke the bathroom door of the home, which was built in 1971.

The landlord further testified that the tenants did not clean the home, and as a result the landlord suffered the monetary losses above. The landlord submitted photos and receipts in support of his claim.

### **Analysis**

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the

amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss

**Section 26** of the Act, in part, states as follows:

***Rules about payment and non-payment of rent***

**26 (1)** *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

I find that the tenants were obligated to pay the rent as per the tenancy agreement and the Act. I find the landlord provided undisputed evidence to support that the tenants have not paid the outstanding rent for this tenancy, nor did they have an order from an Arbitrator allowing them to deduct all or a portion of the rent or utilities, nor do I find that the tenants had a right under the Act to deduct or withhold all or portion of the rent or utilities. I find that the tenants failed to comply with section 26(1) of the Act by failing to pay the landlord \$2,545.00 in outstanding rent, and accordingly I find that the landlord is entitled to a monetary order in that amount.

Section 37(2)(a) of the Act stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged condition except for reasonable wear and tear. I have reviewed the landlord's monetary claim for damages, and have taken in consideration of the evidential materials submitted by the landlord, as well as the sworn testimony provided at the hearing.

I am satisfied that the landlord provided sufficient evidence to demonstrate that the tenants failed to comply with section 37(2)(a) at the end of this tenancy by leaving the home in reasonably clean condition.. Accordingly, I allow the landlord's monetary claim for cleaning, garbage removal, and cleaning supplies for this tenancy.

Section 40 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. I will use this guideline to assess the remainder of the useful life of the damages claimed by the landlord. As per this policy, the useful life of a door is 20 years. As the unit was built in 1971, and the tenants resided there until 2018, I find that the door has exceeded its useful life. Accordingly, this portion of the landlord's monetary claim is dismissed without leave to reapply.

The landlord also filed a monetary claim for the replacement of the shower curtain, which was purchased at the beginning of the tenancy. Shower curtains are not included in Section 40 of the *Residential Tenancy Policy*. As this was an item that was mostly likely used on a daily basis, and was one and a half years old at the end of the tenancy, I find that the shower curtain had exceeded its useful life due to regular wear and tear. I therefore dismiss this portion of the landlord's monetary claim without leave to reapply.

Lastly, the landlord made a monetary claim for a tool used to address a clog in the bathroom sink. I am not satisfied that the landlord has met the onus of proof to support that the clog was solely due to the tenants' actions. On this basis, I dismiss this portion of the landlord's monetary claim without leave to reapply.

I allow the landlord to recover the \$100.00 filing fee for this application.

The landlord continues to hold the tenants' security deposit of \$500.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain tenants' security deposit in satisfaction of the monetary claim.

### **Conclusion**

I issue a Monetary Order in the amount of \$2,523.11 in the landlord's favour as set out in the table below. I allow the landlord to retain the tenants' security deposit in satisfaction of their monetary claim. The remainder of the landlord's monetary claim is dismissed without leave to reapply.

Unpaid Rent	\$2,545.00
Cleaning & Garbage Removal	320.00
Cleaning Supplies	26.88
Cleaning Supplies	31.23
Filing Fee	100.00
Less Security Deposit	-500.00
<b>Total Monetary Award</b>	<b>\$2,523.11</b>

The landlord is provided with this Order in the above terms and the tenant(s) must be served with a copy of this Order as soon as possible. Should the tenant(s) 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: January 16, 2019

---

Residential Tenancy Branch