



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNR MNDC MNSD FF

### Introduction

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

- a monetary order for unpaid rent and for damage or loss pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 2:00 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony and present evidence.

The landlord testified that on February 26, 2019, she served the tenant with her application by e-mail. Included as attachments in the e-mail was a copy of the Application for Dispute Resolution, Notice of Hearing, all of the landlord's evidence as well as a copy of the substituted service decision dated February 19, 2019 permitting the landlord to serve by e-mail. The landlord submitted a copy of the e-mail as proof of service.

Based on the above evidence, I am satisfied that the tenant was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing. The hearing proceeded in the absence of the tenant.

### Issues

Is the landlord entitled to a monetary award for unpaid rent and damage or loss?

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 and Evidence

The tenancy began on October 11, 2018 with a monthly rent of \$2650.00. The tenant paid a security deposit of \$800.00 at the start of the tenancy which the landlord continues to hold.

The landlord submitted a "monetary order worksheet" which provides a breakdown of the landlord's claims totaling \$8423.80. comprised of the following:

- \$2650.00 for the tenant failing to perform an agreed upon contract for service. The landlord testified that the tenant was supposed to do some improvements such as painting work in exchange for free rent for one month at the beginning of the tenancy. The landlord testified the tenant did not do any of the agreed upon work. The landlord obtained and submitted an estimate for the work that was to be completed by the tenant to show that it was equivalent to one month's rent. The terms for the contract for service were included in the addendum to the tenancy agreement.
- \$55.38 for new locks and \$190.00 for new key fobs. The landlord testified that on January 2, 2019 she was informed by the tenant by e-mail that he had vacated the rental unit but no keys or key fobs were returned. The landlord submitted invoices for the replacement locks and fobs.
- \$300.00 for cleaning work required at the end of the tenancy. The landlord testified the tenant left the unit extremely dirty and full of the tenant's belongings. The landlord referred to addendum #6 which provided for a \$300.00 cleaning charge if the unit was not cleaned at the end of the tenancy. The landlord testified that she hired a cleaner from the building to do the work and paid her cash.
- \$2650.00 for unpaid January 2019 rent. The landlord testified the tenant abandoned the unit without providing any notice; therefore the landlord suffered a loss for this month.
- \$2200.00 removal and storage of the tenant's personal belongings. The landlord testified that she had to hire movers to remove and store the tenant's belongings.

The landlord submitted an invoice for this expense as well as picture evidence in support of the belongings left behind.

- \$278.42 for expense incurred to place a Notice of Disposition advertisement in a local newspaper in regards to the tenant's abandoned property. An invoice was submitted.

### Analysis

Section 7 of the Act provides for an award for compensation for damage or loss as a result of a landlord or tenant not complying with this Act, the regulations or their tenancy agreement.

Section 26 of the Act requires that 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.

Section 37 of the Act requires 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.

I accept the landlord's uncontested testimony and supporting evidence and find the landlord suffered a loss as claimed for each of the following items: unpaid January 2019 rent, moving and storage of the tenant's personal belongings, expense incurred to place notice of disposition, cleaning of the rental unit replacement of locks and key fobs. With the exception of the cleaning charge, the landlord submitted invoices in support of the loss suffered for each of these items. The cleaning charge was provided for in the addendum and I accept the landlord's testimony that she paid cash to have this work completed. The picture evidence also supports the tenant left the unit uncleaned and filled with the tenant's belongings requiring the landlord to moving and storage expenses. The landlord is awarded \$5673.80 for the items as claimed.

The landlord's claim with respect to the unfinished improvement work the tenant agreed to do in exchange for rent is dismissed. The parties entered into a contract for service by which the landlord agreed to waive the rent for the first month of the tenancy. If the tenant did not uphold his end of the contract, the landlord may pursue a remedy for breach of contract outside the Residential Tenancy Act.

As the landlord was for the most part successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$5773.80.

The landlord continues to hold a security deposit and pet deposit in the amount of \$800.00. I allow the landlord to retain the security deposit and pet deposit in partial satisfaction of the monetary award pursuant to section 38 of the Act.

Therefore, I find that the landlord is entitled to a Monetary Order in the amount of \$4973.80.

### Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$4973.80. Should the tenant 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: May 31, 2019

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Residential Tenancy Branch