



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

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

### Introduction

This hearing was convened as a result of the landlord's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") for a monetary order for damages to the unit, site or property, for unpaid rent or utilities, for authorization to retain the tenants' security deposit and pet damage deposit, for money owed for compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the cost of the filing fee.

The landlord attended the teleconference hearing and gave affirmed testimony. During the hearing the landlord was given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding ("Notice of Hearing"), application and documentary evidence were considered. The landlord testified that the Notice of Hearing, application and documentary evidence were served on the tenants each by their own registered mail package with signature required on March 21, 2019, and that each package was addressed to the tenants in a separate envelope at the forwarding address provided by the tenants on the outgoing Condition Inspection Report ("CIR"). The registered mail tracking numbers have been included on the cover page of this decision for ease of reference.

According to the online registered mail tracking website the registered mail packages was signed for and accepted by the tenants on April 1, 2019. As a result, I find the tenants were served with the Notice of Hearing, application and documentary evidence on April 1, 2019, which is the date the tenants signed for and accepted the registered mail packages. Based on the above, the hearing continued without the

tenants present as I am satisfied on service and as such, I consider this application to be unopposed by the tenants.

### Preliminary and Procedural Matter

The landlord included an email address for both the landlord and the tenants, which were confirmed by the landlord during the hearing. The landlord also confirmed their understanding that the decision would be emailed to both parties. Any applicable orders will be emailed to the appropriate party for service on the other party.

### Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenants' security deposit and pet damage deposit under the *Act*?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on November 1, 2018 and ended on March 12, 2019, when the tenants vacated the rental unit and returned the rental unit keys. The landlord testified that monthly rent was \$1,350.00 per month and due on the first day of each month. According to the landlord, the tenants paid a security deposit of \$675.00 and a pet damage deposit of \$675.00. The landlord testified that he has returned \$550.00 of the pet damage deposit to the tenants already and continues to hold a \$125.00 balance of the pet damage deposit, plus the full \$675.00 security deposit.

The landlord is claiming a total of \$1,675.87, which is comprised as follows and contains an addition error on the part of the landlord, which I will address below:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Home Depot – trim cost	\$17.42
2. Home Depot – paint trim set	\$7.74
3. Home Depot – paint brush	\$7.63
4. Home Depot – white paint	\$30.58
5. Home Depot – paint try	\$2.49

6. Landlord's travel and labour	\$182.50
7. Loss of rent	\$1,350.00
8. Home Depot – blinds	\$61.57
9. Home Depot – burnt out light(s)	\$36.92
10. Home Depot – broken strains	\$22.90
<b>TOTAL</b>	<b>\$1,701.33</b>

During the hearing, the landlord was advised that due to the landlord serving the tenants with the amount claimed of \$1,675.87, before the filing fee is applied, that I find it would be unfair to consider the \$1,701.33 amount listed above in the Monetary Order Worksheet submitted by the landlord. I find that it would contradict the Principles of Natural Justice to increase the monetary claim at the hearing, without first having served an amendment on the respondents, which is also required in the Residential Tenancy Branch (“RTB”) Rules of Procedure (“Rules”). Therefore, I find the maximum monetary claim I will consider before the filing fee is applied, is \$1,675.87 as indicated in the landlord’s original application.

A copy of the Condition Inspection Report (“CIR”) was submitted in evidence. The landlord stated that the incoming CIR was completed with the tenants present and was signed on November 1, 2018. The landlord also affirmed that the outgoing CIR was completed with the tenants present and was signed on March 12, 2019. The landlord testified that the tenants returned the rental unit keys on March 12, 2019.

Regarding item 1, the landlord has claimed \$17.42 for the cost to replace damaged trim, which the landlord affirmed was caused by the tenants. The landlord referred to the CIR in support of this portion of their claim, which indicates that trim was damaged by dog scratching. In addition, the landlord referred to a receipt in support of the amount claimed of \$17.42 for this item.

Regarding item 2, the landlord has claimed \$7.74 for the cost of a trim paint set, which the landlord affirmed was necessary to repair the trim damage referred to in item 1 above. The landlord referred to the CIR in support of this portion of their claim, which indicates that trim was damaged. In addition, the landlord referred to a receipt in support of the amount claimed of \$7.74 for this item.

Regarding item 3, the landlord has claimed \$7.63 for the cost of a paint brush, which the landlord affirmed was necessary to repair the trim damage referred to in item 1 above. The landlord referred to the CIR in support of this portion of their claim, which indicates

that trim was damaged. In addition, the landlord referred to a receipt in support of the amount claimed of \$7.63 for this item.

Regarding item 4, the landlord has claimed \$30.58 for the cost of white trim paint, which the landlord affirmed was necessary to repair the trim damage referred to in item 1 above. The landlord referred to the CIR in support of this portion of their claim, which indicates that trim was damaged. In addition, the landlord referred to a receipt in support of the amount claimed of \$30.58 for this item.

Regarding item 5, the landlord has claimed \$2.49 for the cost of a paint tray, which the landlord affirmed was necessary to paint the trim as indicated in items 2, 3 and 4 above. The landlord referred to the CIR in support of this portion of their claim, which indicates that trim was damaged. In addition, the landlord referred to a receipt in support of the amount claimed of \$2.49 for this item.

Regarding item 6, the landlord has claimed \$182.50 for the travel and labour expenses, which the landlord affirmed was necessary repair the damages listed on the outgoing CIR. The landlord stated that he believes the amount claimed is very reasonable as the landlord spent at least 7 hours to repair the rental unit due to the condition the tenants left the rental unit in. The landlord testified that he is charging the tenants \$25.00 per hour for his labour and \$30.00 per hour for his travel time to get supplies and attend the rental unit to repair the rental unit. The landlord referred to several colour photos submitted in evidence that supported items left behind by the tenants, and the condition of the rental unit at the end of the tenancy.

Regarding item 7, the landlord has claimed \$1,350.00 for unpaid rent for the month of March 2019. The landlord testified that the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 2, 2019, with an effective vacancy date of March 10, 2019. The landlord testified that although they have not re-rented the rental unit since the tenancy vacated the rental unit, they would have been unable to do so for March 2019, due to the items left behind by the tenants, which the landlord had to deal with, and all of the repair work described above and below in this decision.

Regarding item 8, the landlord has claimed \$61.57 for the cost to replace damaged blinds. The landlord referred to the CIR in support of this portion of their claim, which indicates that the tenants were listed in good condition at the start of the tenancy and were damaged by the tenants during the tenancy. In addition, the landlord referred to a receipt in support of the amount claimed of \$61.57 for this item.

Regarding item 9, the landlord has claimed \$4.48 for the cost to replace a missing locknut for the sink. The landlord referred to the CIR in support of this portion of their claim, which indicates that the sink was missing a locknut at the end of the tenancy. In addition, the landlord referred to a receipt in support of the amount claimed of \$4.48 for this item.

Regarding item 10, the landlord has claimed \$36.92 for the cost to replace burned out lightbulbs. The landlord referred to the CIR in support of this portion of their claim, which indicates that there were burned out lightbulbs at the end of the tenancy. In addition, the landlord referred to a receipt in support of the amount claimed of \$36.92 for this item.

Regarding item 11, the landlord has claimed \$22.90 for the cost to replace broken strainers. The landlord referred to the CIR in support of this portion of their claim, which indicates that there were broken strainers in the rental unit at the end of the tenancy. In addition, the landlord referred to a receipt in support of the amount claimed of \$22.90 for this item.

### Analysis

Based on the undisputed documentary evidence before me and the undisputed testimony of the landlord provided during the hearing, and on the balance of probabilities, I find the following.

As I have accepted that the tenants were served with the Notice of Hearing, application and documentary evidence and did not attend the hearing, I consider this matter to be unopposed by the tenants. As a result, I find the landlord's application is fully successful up to the maximum claim amount of \$1,675.87, before the filing fee is addressed.

I note that RTB Policy Guideline 1 indicates that tenants are responsible for replacing burned out lightbulbs at the end of the tenancy. I find the tenants failed to replace the burned out lights bulbs at the end of the tenancy and are responsible for that cost noted above. In addition, section 26 of the *Act* applies which state:

### **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.

[Emphasis added]

As the tenants remained in the rental unit until March 12, 2019, and based on the condition of the rental unit described by the landlord in the matter before me, I find the tenants breached section 26 of the *Act* and owe March 2019 rent in the amount claimed of \$1,350.00.

As the landlord's claim had merit, I grant the landlord the recovery of the cost of the filing fee in the amount of **\$100.00** pursuant to section 72 of the *Act*. Given the above, I find the landlord has established a total monetary claim of **\$1,775.87**, which is comprised of \$1,675.87 for items 1 to 11 above, plus the \$100.00 filing fee.

As the landlord continues to hold the tenants' combined remaining deposits of \$800.00 and pursuant to sections 38 and 72 of the *Act*, I authorize the landlord to retain the tenants' full security deposit of \$675.00 and the remaining pet damage deposit balance of \$125.00, which combined total \$800.00, which have accrued \$0.00 in interest, in partial satisfaction of the landlord's monetary claim. I grant the landlord a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenants to the landlord in the amount of **\$975.87**.

### Conclusion

The landlord's application is fully successful.

The landlord has been authorized to retain the remaining combined deposits as noted above of \$800.00, including \$0.00 in interest, in partial satisfaction of the landlord's monetary claim. The landlord has been granted a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenants to the landlord in the amount of \$975.87. Should the landlord require enforcement of the monetary order, the landlord must first serve the tenants with the monetary order and then may enforce the monetary order in the Provincial Court (Small Claims Division).

This decision will be emailed to both parties. The monetary order will be emailed to the landlord for service on the tenants.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: July 10, 2019