



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes

MNDL-S MNRL-S FFL

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied for a monetary order for unpaid rent and for a monetary order for money owed or compensation for damage, for authority to retain the tenant's security deposit, and for recovery of the filing fee paid for this application.

The landlord attended the telephone conference call hearing; the tenant did not attend.

The landlord testified that she served the tenant with her Application for Dispute Resolution and Notice of Hearing by registered mail on April 30, 2019. The landlord provided the copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this mailing, reflected on the style of cause page of this Decision. Additionally, the landlord submitted she sent by registered mail a copy of her amended application.

Based upon the submissions of the landlord, I accept the tenant was served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence.

The hearing process was explained to the landlord and she was given an opportunity to ask questions about the hearing process. Thereafter, landlord was provided the opportunity to present her evidence orally and to refer to relevant documentary and digital evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure ("Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and for other monetary compensation, and to recover the filing fee?

### Background and Evidence

The landlord submitted that this tenancy originally began in December 2016, for a monthly rent of \$1,500.00. The landlord submitted a copy of a subsequent written tenancy agreement, for a continuation of the tenancy beginning December 1, 2017, on a month to month basis, and a monthly rent of \$1,530.00.

The landlord confirmed that the tenant paid a security deposit of \$750.00 and a pet damage deposit of \$375.00.

The landlord submitted that from the security deposit and pet damage deposit, totalling \$1,125.00, she held back the amount of an original monetary claim of \$570.00 and returned \$555.00 to the tenant. Since then, the landlord submits that the tenant now owes for additional registered mail fees, which has increased her monetary claim.

The landlord's monetary claim is as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. FOB as per addendum, strata fee	\$40.00
2. Missing rent	\$60.00
3. Filing fee	\$100.00
4. Registered mail	\$13.25 \$33.46
5. Television stand	\$150.00
6. Fridge filter	\$53.76
7. Baseboard materials and labour	\$120.00
8. Registered mail	\$11.03
<b>TOTAL</b>	<b>\$581.50</b>

The landlord submitted a copy of a condition inspection report ("CIR") and stated that the tenant failed to attend a final inspection of the rental unit, despite repeated notices and on the Residential Tenancy Branch ("RTB") standard form. The landlord submitted a copy of the standard form notice.

In support of her application, the landlord provided the following testimony and evidence.

*FOB-*

The landlord submitted that the tenant was provided two key FOB's, and only returned one. The addendum to the tenancy agreement shows the tenant received two FOB's and that failure to return them is a cost of \$40.00 each.

*Missing rent-*

The landlord submitted that she collected the first and last month's rent, but as the rent increased throughout the tenancy, from \$1,500.00 to \$1,560.00, the tenant now owes the difference for the last month's rent of \$60.00.

*Television stand-*

The landlord submitted that the television stand was provided to the tenant, as mentioned in the written tenancy agreement, and that her dog chewed the entire length of the stand. Although the stand originally cost \$299.00, plus tax, the landlord said she was claiming half the amount of that cost, as it was used.

The landlord submitted a copy of the original cost of the stand and photos of the damage.

*Fridge filter-*

The landlord submitted that she is claiming for the filter as it was left a "disaster" by the tenant, because she never cleaned it during the entire 2 and ½ year tenancy. The landlord submitted a copy of the photo of the filter and a copy of the receipt.

*Baseboard material and labour-*

The landlord submitted that the tenant had approval for one dog, but instead had three. The dogs chewed the baseboard and the tenant tried to replace the baseboard. The landlord submitted the tenant did not cut the materials properly and it had to be replaced.

The landlord submitted a photo of the damaged baseboard.

*Various registered mail costs-*

The landlord submitted that she is entitled to registered mail costs for sending her application for dispute resolution and amendment and to schedule final inspections.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party

do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. The claiming party, the landlord in this case, has the burden of proof to substantiate their claim on a balance of probabilities.

As to the costs claimed by the landlord associated with cleaning and damage, Section 37 of the Act requires a tenant who is vacating a rental unit to leave the unit reasonably clean and undamaged except for reasonable wear and tear.

*FOB-*

I find the landlord substantiated through her undisputed testimony that the tenant failed to return one of the two FOB's and as a result, is obligated under the written tenancy agreement to pay \$40.00 in costs.

I grant the landlord a monetary award of \$40.00.

*Missing rent-*

Under section 26 of the Act, a tenant is required to pay rent when it is due under the tenancy agreement and is not permitted to withhold rent without the legal right to do so.

In this case, the tenant was obligated to pay rent monthly on the first day of the month. What this means is the landlord is not allowed to collect the last month's rent as it was not due at the beginning of or any other time during the tenancy.

Additionally, the landlord has already accepted the last month's rent, in violation of the Act, and I find that as a result, the last month's rent was fully paid.

I dismiss the landlord's claim for \$60.00.

*Television stand-*

I find the landlord submitted sufficient, undisputed evidence that the tenant's dogs damaged the television stand and decreased the value. I find the costs of devaluation claimed by the landlord to be reasonable and I therefore find the landlord is entitled to a monetary award as claimed of \$150.00.

*Fridge filter-*

I find the landlord submitted sufficient, unopposed evidence that by the tenant's neglect throughout the tenancy, the landlord was required to replace the fridge filter.

I find the landlord supported her claim with a receipt, that the cost is reasonable and I therefore find the landlord is entitled to a monetary award as claimed of \$53.76.

*Baseboard material-*

I find the landlord submitted sufficient, undisputed evidence that the tenant's dogs damaged the baseboards and decreased the value. I find the costs of devaluation claimed by the landlord to be reasonable.

I find the landlord supported her claim with a receipt, that the cost is reasonable and I therefore find the landlord is entitled to a monetary award as claimed of \$120.00.

*Various registered mail costs-*

The Act does not provide for the reimbursement of expenses related to notices to the other parties or for disputes arising from tenancies other than the filing fee. This claim is dismissed.

I grant the landlord recovery of her filing fee of \$100.00, due to her partially successful application and pursuant to section 72(1) of the Act.

Due to the above, I grant the landlord's application in part and find she is entitled to a total monetary award of \$463.76, comprised of a FOB cost of \$40.00, damage to the television stand of \$150.00, fridge filter of \$53.76, baseboard materials and labour of \$120.00 and her filing fee of \$100.00 paid for this application.

As the landlord has retained \$570.00 from the tenant's security deposit, I authorize her to keep the amount of her monetary award of \$463.76 from the tenant's security deposit in satisfaction of the award.

As to the remaining portion of the tenant's security deposit, or \$106.24 (\$570.00 retained by the landlord - \$463.76 for landlord's monetary award), I find the undisputed evidence is that the landlord offered the tenant two opportunities to participate in a move-out inspection and she failed to do so.

Under section 36(1) of the Act, I find the tenant extinguished her right to a return of her security deposit.

Therefore, the landlord is authorized to retain the remaining portion of the tenant's security deposit and I do not order the landlord to return this amount.

Conclusion

The landlord's application for monetary compensation is granted in part, has been authorized to retain the portion of the tenant's security deposit in the amount of her monetary award, and has been allowed to retain the remaining portion of the tenant's security deposit.

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: July 25, 2019

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Residential Tenancy Branch