



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FFL, MNRL-S

### Introduction

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

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- an order authorizing the landlord the recovery of the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted via teleconference and was attended by the landlord. No one was in attendance on behalf of the tenant. The landlord submitted documentary evidence that the tenant was served notice of this application and this hearing by registered mail on May 23, 2019 and was signed for and accepted by the tenant on May 27, 2019. Based on the submissions of the landlord, I find the tenant was served in accordance to section 89 of the *Act*. Therefore, I continued in the absence of the tenant.

### Issue to be Decided

Is the landlord entitled to a monetary award for losses arising out of this tenancy?

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 the recovery of the filing fee?

### Background, Evidence

The landlord's undisputed testimony is as follows. The tenancy began on March 1, 2017 and ended on April 14, 2019. The tenant was obligated to pay \$1332.00 per month in rent and at the outset of the tenancy the tenant paid a \$625.00 security deposit and \$300.00 pet deposit which the landlord still holds. The landlord obtained an order of possession through the Branch on March 14, 2019, however; despite his attempts to have bailiffs execute the order of possession, there was a three-week backlog to have them attend. The landlord testified that the tenant adamantly refused to move out until April 14, 2019. The landlord was unable to rent the unit out

until the tenant moved out but found a new tenant for May 1, 2019. The landlord seeks the loss of revenue for the month of April of \$1332.00 and the recovery of the \$100.00 filing fee.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. **In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof.** The claimant must provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. I address the landlords claim and my findings as follows.

any out of pocket costs at this time, I must dismiss this portion of their application.

The landlord provided extensive documentation and undisputed testimony to support his claim. Based on the above and in the absence of any disputing evidence from the tenant, I find that the landlord is entitled to the loss of revenue for the month of April 2019 for \$1332.00 and the recovery of the \$100.00 filing fee for this application.

### Conclusion

The landlord has established a claim for \$1432.00. I order that the landlord retain the \$625.00 security deposit and \$300.00 pet deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$507.00. This order may be filed in the Small Claims 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: September 30, 2019

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Residential Tenancy Branch