



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL-S, MNDCL, FFL

### Introduction

On November 12, 2019, the Landlord made an Application for Dispute Resolution seeking a Monetary Order for compensation pursuant to Section 67 of the *Act*, seeking to apply the security deposit towards this debt pursuant to Section 67 of the *Act*, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

On February 19, 2020, the Landlord amended his Application to increase the monetary compensation that he was seeking pursuant to Section 67 of the *Act*.

This Application was set down for a hearing on March 26, 2020 at 1:30 PM. The Landlord attended the hearing; however, the Tenant did not make an appearance during the 41-minute hearing. All parties provided a solemn affirmation.

The Landlord advised that he served the Tenant with the Notice of Hearing and evidence package by registered mail on November 15, 2019 and the tracking history indicated this was signed for on November 18, 2019 (the registered mail tracking number is listed on the first page of this decision). Based on this undisputed testimony and evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was served the Notice of Hearing and evidence package.

The Landlord advised that he served his Amendment seeking further compensation, and additional evidence, to the Tenant by registered mail on February 20, 2020 (the registered mail tracking number is also listed on the first page of this decision). He stated that he sent this package to the Tenant based on a mailing address that the Tenant provided by text message. A copy of this text message was submitted as documentary evidence. This address was also the Tenant's former residence. The tracking history indicated that this package was refused. Based on this undisputed

testimony and evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was deemed to have received the Amendment and evidence package five days after it was mailed.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order for compensation for unpaid rent?
- Is the Landlord entitled to apply the security deposit towards this debt for unpaid rent?
- Is the Landlord entitled to a Monetary Order for compensation for damages and cleaning?
- Is the Landlord entitled to recover the filing fee?

#### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord advised that the tenancy started on May 15, 2019 and ended when the Tenant gave up vacant possession of the rental unit on December 18, 2019. This is the date the Tenant gave the keys to the concierge of the building. Rent was established at \$2,200.00 per month, due on the first day of each month. A security deposit of \$1,100.00 was also paid. A signed copy of the tenancy agreement was submitted as documentary evidence.

The Landlord stated that a move-in inspection report was conducted by his realtor with the Tenant on April 30, 2019. However, he did not submit this as documentary evidence, and he could not find it during the hearing to provide any testimony about it. He stated that a move-out condition inspection report was not conducted as the Tenant vacated the rental unit without notice.

On his original Application, the Landlord advised that he is seeking compensation in the amount of **\$2,200.00** for the cost of November 2019 rent as the Tenant failed to pay this. He referenced the insufficient funds notification from his financial institution, that was submitted as documentary evidence, to support his claim. He also sought to claim the security deposit to be applied to this debt.

On his Amendment, the Landlord advised that he is seeking compensation in the amount of **\$100.00** for the cost of the filing fee; however, he was advised that I would make this determination as part of this Decision.

The Landlord also advised that he is seeking compensation in the amount of **\$267.50** for the cost of the repair of pet damage as it appears as if the Tenant's pet had chewed and damaged parts of the rental unit. He paid a contractor to complete these repairs. He referenced the pictures and invoice, submitted as documentary evidence to support this claim. As the invoice indicated that the repair actually cost \$262.50, the Landlord amended his claim to reflect this amount.

The Landlord advised that he is seeking compensation in the amount of **\$200.00** for the cost of the removal and disposal of garbage, and for cleaning. He stated that the Tenant left two tables and a sofa behind and he had to enlist the help of a friend to help dispose of these items. He stated that he paid for the disposal costs and he paid his friend "one hundred and something dollars" cash to assist him. He also stated that he paid a person to clean the rental unit for three to four hours at a cost of \$25.00 per hour. However, he did not have any receipts for any of these cash payments. He stated that he had pictures of how dirty the rental unit was, but he did not submit them for consideration. As well, he reasoned that the nature of the repair job above would inherently leave a mess that would have required cleaning.

The Landlord advised that he is seeking compensation in the amount of **\$1,800.00** for the cost of unpaid rent; however, he was already granted a Monetary Order for this amount in a previous hearing (the relevant file number is listed on the first page of this decision). As such, this claim was dismissed in its entirety.

The Landlord advised that he is seeking compensation in the amount of **\$1,128.75** for the cost of paying an agent to re-rent the rental unit. This claim was essentially for liquidated damages; however, the Landlord advised that a liquidated damages clause was not included in the tenancy agreement. As a result, this claim was dismissed in its entirety.

The Landlord advised that he is seeking compensation in the amount of **\$2,200.00** for the cost of November rent; however, this claim was addressed above. As a result, this second claim for the same amount of money was dismissed in its entirety.

Finally, the Landlord advised that he is seeking compensation in the amount of **\$11.97** for the cost of serving documents via registered mail. However, the Landlord was advised that there are no provisions in the *Act* for compensation of this expense. As such, this claim was dismissed in its entirety.

### Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

Sections 23 and 35 of the *Act* outline the Landlord's requirements to conduct a move-in and move-out inspection report. Clearly the importance of having completed these reports would be paramount to a claim for damages at the end of the tenancy.

With respect to the Landlord's claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, "It is up to the party who is claiming compensation to provide evidence to establish that compensation is due", that "the party who suffered the damage or loss can prove the amount of or value of the damage or loss", and that "the value of the damage or loss is established by the evidence provided."

Regarding the Landlord's initial claim of \$2,200.00 for the cost unpaid rent for November 2019, I am satisfied of the undisputed evidence that the Tenant did not pay rent for this month and the Landlord suffered a rental loss. As such, I am satisfied that the Landlord substantiated this claim and that he should be awarded a monetary award in the amount of **\$2,200.00** to satisfy this claim. In addition, as the Landlord requested to apply the security deposit to this debt in his initial Application, I am satisfied that the Landlord may retain the security deposit to offset a portion of the debt outstanding, pursuant to Section 67 of the *Act*.

Regarding the Landlord's claim of \$262.50 for the cost of repairing damage caused by the Tenant, despite the Landlord not submitting copies of the condition inspection

report, I am satisfied that the Landlord has provided a preponderance of evidence to demonstrate that there was damage caused by the Tenant because it was not likely rented to him in this condition. As such, based on a balance of probabilities, I am satisfied from the undisputed evidence that the Landlord has established this claim and should be granted a monetary award in the amount of **\$262.50** to satisfy this claim to repair the damage that the Tenant left.

Finally, with respect to the Landlord's claim of \$200.00 for the cost of garbage disposal and cleaning, based on the undisputed evidence before me, I am satisfied that the Tenant left behind furniture that required being disposed of and that there was some cost associated with this. However, the Landlord has provided insufficient evidence of his alleged payments related to this disposal. In addition, he has provided insufficient evidence to support that the rental unit was not cleaned at the end of the tenancy, and he has provided insufficient evidence to support that he did pay someone to clean. As such, I find that the Landlord has only established that he should be awarded a nominal amount of **\$50.00** to cover the cost of disposing of the unwanted furniture.

As the Landlord was partially successful in his Application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this Application.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlord a Monetary Order as follows:

#### **Calculation of Monetary Award Payable by the Tenant to the Landlord**

November 2019 rent arrears	\$2,200.00
Security deposit	-\$1,100.00
Repair costs	\$262.50
Furniture disposal	\$50.00
Recovery of filing fee	\$100.00
<b>TOTAL MONETARY AWARD</b>	<b>\$1,512.50</b>

#### Conclusion

I provide the Landlord with a Monetary Order in the amount of **\$1,512.50** in the above terms, and the Tenant must be served with **this Order** as soon as possible. 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: March 26, 2020

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Residential Tenancy Branch