



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

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

The landlord filed an Application for Dispute Resolution (the “Application”) on July 9, 2020 seeking an order of possession for the rental unit, to recover the money for unpaid rent, and to recover other monetary loss. Additionally, they seek to recover the filing fee for the Application. The matter proceeded by way of a hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”) on August 14, 2020. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord attended the telephone conference call hearing; the tenant did not attend. An agent for the landlord attended to assist with translation.

To proceed with this hearing, I must be satisfied that the landlord made reasonable attempts to serve the tenant with this Notice of Dispute Resolution Proceeding. This means the landlord must provide proof that the document has been served at a verified address allowed under Section 89 of the *Act*, and I must accept that evidence.

The landlord gave testimony that they delivered the notice of this hearing and their prepared evidence in person on July 10, 2020. They handed this document and the prepared evidence to a family member of the tenant and verified that this person was of legal age. This was at the mail address where the tenant resides, in the rental unit.

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

## Preliminary Matter

The landlord issued a ‘One-Month Notice to End Tenancy for Cause’ (the “One Month Notice”) on June 30, 2020. The reason for this was the tenant “assigned or sublet the rental unit. . .without landlord’s written consent.” The landlord provided details on page three to state that one of the original tenants to the agreement “had already moved out” and a new tenant moved

in. Neither of these moves were communicated to the landlord. The landlord discovered this after an inspection on May 27, 2020.

The landlord provided the date of July 31, 2020 as the date on which the tenant must move out

The landlord also submitted a 'Proof of Service' for the One Month Notice which shows that the landlord hand-delivered a copy to the tenants at 20:10 pm on June 30, 2020. The landlord attached the One Month Notice to the door of the rental unit at that time. A witness signed the form and provided their name to state that they saw that transaction. In the hearing, the landlord stated they served the three-page One-Month Notice in the manner described on the proof of service document.

In the hearing, the landlord stated that the tenant moved out on July 31, 2020, after service of the One-Month Notice. The tenant told the landlord of this in advance. When the landlord served Notice of this dispute resolution proceeding, the family member confirmed that the tenant was vacating the unit on July 31, 2020.

The evidence shows the tenant moved out from the unit prior to this hearing; therefore, the request for an Order of Possession is dismissed.

#### Issue(s) to be Decided

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to compensation for monetary loss or other money owed pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this Application pursuant to section 72 of the *Act*?

#### Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section.

The landlord spoke to the terms of the tenancy agreement, a copy of which was provided as evidence. The tenancy began on June 1, 2018, with the rent amount at \$4,300.00. The tenants made a payment of \$2,150.00 for a security deposit on May 22, 2018. The utilities of

rent, electricity and heat are not included in the monthly rent amount. The parties signed the agreement on May 23, 2018. The tenants were not in attendance at the hearing to provide any information that challenged that presented by the landlord on these points.

The landlord submitted a copy of a document entitled 'Amendment to Residential Tenancy Agreement' dated April 13, 2019. This advised the tenant of a rent increase effective August 1, 2019, adding \$107.50. The tenant signed to acknowledge this amount. This brought the monthly amount of rent from that point forward to \$4,407.50.

The landlord applied for monetary compensation for \$11,630.00 for unpaid rent. They presented a spreadsheet dated August 8, 2020 showing their calculations for the "total rent arear". This covers a portion of the month for April 2020 (\$407.50), then full months rent for each of May, June, and July. The subtracted the \$500.00 government subsidy for each of these months, making the claim \$3,907.50 for each of those three months.

The landlord submitted copies of two bills for utilities owing: that of gas for \$296.15; and that of electricity for \$297.43. These amounts together total \$593.58.

The landlord also itemized amounts for damaged items in the unit, repair costs, and junk removal after the end of the tenancy. These are as follows:

item	service/repair	\$
1	garage remote	103.15
2	bay window repair	380.10
3	lock change and remote	252.00
4	soap dispenser	39.42
5	junk removal	157.50
	TOTAL	932.18

This brings the total amount of their claim to \$13,155.76.

The landlord also provided details and receipts on the clean-up and repair costs they incurred after the tenant moved out. This was supplemented by photos of the unit – they show different rooms in need of repair and garbage removal.

The landlord provided evidence that they messaged to the tenant about the state of the unit after their move out, on August 1, 2020. They identified a number of issues throughout the unit and stated: ". . .the amount of wear and tear your family have accumulated in 2 years is astounding."

## Analysis

From the testimony of the landlord I am satisfied that a tenancy agreement was in place. They provided the specific terms of the rental amount and accounted for previous rental amount increases. The tenant did not attend the hearing; therefore, there is no evidence before me to show otherwise.

The *Act* section 26 outlines a tenant's duty to pay rent:

- (1) A tenant must pay rent when it is due under the tenancy agreement, whether 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.

By the specific term within the tenancy agreement, the tenant agreed to pay all utilities.

I accept the evidence before me that the tenant failed to pay all the April 2020 rent and left an amount owing. Further, the tenant continued the pattern of not paying any rent for the months of May, June, and July 2020. The landlord presented that they tried to give the tenant opportunities to pay and provided detailed notices showing the amounts owing. The tenant did not comply.

The landlord provided detailed testimony and evidence in the form of spreadsheets and information flowing to the tenant. As presented, I find the amount of \$11,630.00 is accurate and validated through evidence, through to July 2020.

The landlord claims \$593.58 total for unpaid utilities. Their evidence is two bills showing separate unpaid amounts. As per the tenancy agreement, the utilities are not included in the monthly rent amount. This leaves the tenant owing for a period they maintained tenancy in the unit. I grant the amount owing to the landlord, \$593.58.

Section 37(2) of the *Act* requires a tenant, when vacating a rental unit to leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all the keys and other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide enough evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;

3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

As set out above, the landlord's worksheet identifies damages from the tenancy and cleaning costs. To determine the landlord's eligibility for compensation, I carefully examine the evidence they have presented for each item, to establish whether they have met the burden of proof.

1. garage remote: \$103.15: I accept the evidence of the landlord that they replaced the remote. They purchased the item on August 1, 2020 and provided proof of the cost in the form of the item receipt. They messaged to the tenant identifying this as an issue they identified after the tenant's move out. I award this amount to the landlord.
2. bay window repair: \$380.10: The landlord provided images of the damage to the front bay window area. They provided an image of the receipt dated August 4, 2020 showing the amount paid. These pictures are adequate evidence to establish damage; however, the receipt is bare on detail of materials used, labour hours, and other costs. The calculation of cost is not detailed; therefore, the value of the damage or loss is not established. I make no award for this portion of the claim.
3. lock change and remote: \$252.00: The landlord identified this as an issue to the tenant after the move out. Their message to the tenant states: "Aside from a set of basement keys, no keys from the main floor have been returned. The remote control for the security system monitor in the kitchen is missing." The landlord has established the value of these items through the receipt they presented. I find the lock replacement was necessitated by the tenant not returning the key. Similarly, the security of the unit is compromised with no remote returned. I award the landlord this full amount in compensation for the loss.
4. soap dispenser: \$39.42: I accept the evidence of the landlord that they replaced this item. They provided proof of their discovery of this damage and their mention of it to the tenant. They also provided proof of purchase of the item. I award this amount to the landlord.
5. junk removal: \$157.50: The landlord provided a photo that shows the accumulation of junk outside the unit. The landlord listed specific items left by the tenant, and their location. They also requested their removal by the specific date of August 3, 2020, stating: "[The landlord] will hire a junk removal company to have these items removed and forward you the bill should they remain past the deadline."

I find the landlord here established that the items were left by the tenant and requested the tenant's compliance with removing these items. The tenant did not comply and the landlord made them aware of the cost to them. For these reasons, I award this amount of the claim to the landlord.

The *Act* section 72(2) gives an arbitrator the authority to make a deduction from the security deposit held by the landlord. The landlord has established a claim of \$12,775.65. After setting off the security deposit amount of \$2,150.00, there is a balance of \$10,625.65. I am authorizing the landlord to keep the security deposit amount and award the balance of \$10,625.65 as compensation for rent, utilities, and damage or loss amounts owing.

As the landlord is successful, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

### Conclusion

Pursuant to sections 67 and 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$10,725.65 for their monetary claims, and a recovery of the filing fee for this hearing application. The landlord is provided with this Order in the above terms and the tenants must be served with **this Order** as soon as possible. Should the tenants 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 *Act*.

Dated: September 3, 2020

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Residential Tenancy Branch