



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FFL, MNRL, MNDCL, MNDL

### Introduction

This hearing was scheduled to convene at 1:30 p.m. on December 11, 2020 by way of conference call concerning an application made by the landlord seeking a monetary order for unpaid rent or utilities; a monetary order for damage the rental unit or property; a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement; and to recover the filing fee from the tenants for the cost of the application.

The landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenants joined the call.

The landlord testified that each of the tenants was individually served with the Application for Dispute Resolution, notice of this hearing, and evidentiary material (the Hearing Packages) by registered mail on October 29, 2020. The landlord has provided 2 Registered Domestic Customer Receipts and a Canada Post cash register receipt bearing that date, as evidence for this hearing. I am satisfied that both tenants have been served in accordance with the *Residential Tenancy Act*.

All evidence of the landlord has been reviewed and is considered in this Decision.

### Issues to be Decided

- Has the landlord established a monetary claim as against the tenants for unpaid rent or utilities?
- Has the landlord established a monetary claim as against the tenants for money owed or compensation for damage or loss under the *Act*, regulation or tenancy

agreement, and more specifically for liquidated damages, advertising costs, and costs to prepare for this hearing and serve documents?

- Has the landlord established a monetary claim as against the tenants for damage to the rental unit or property?

### Background and Evidence

The landlord testified that this fixed-term tenancy began on December 12, 2019 and was to expire on March 31, 2020, however the tenants vacated without notice to the landlord around February 9, 2020, and without paying any rent for February.

Rent in the amount of \$2,000.00 was payable on the 1<sup>st</sup> day of each month, in addition to 30% of the hydro bills, and the landlord collected a pro-rated amount of rent for the first month of the tenancy. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$1,000.00 which is still held in trust by the landlord and no pet damage deposit was collected. The rental unit is a basement suite, and the landlord resides in the upper level of the house.

The landlord further testified that the tenants have not provided the landlord with a forwarding address in writing, but told the landlord that they were working temporarily in the area on condominiums with the Iron Workers' Union, and provided the landlord with their driver's licenses containing their addresses. The tenants said that they have their own mortgages and would be returning to their homes after 3 or 4 months. That was emphasized over and over, and those addresses were the addresses that the landlord served the Hearing Packages to.

The landlord's claims are as follows:

- \$2,000.00 for rent for February, 2020;
- \$2,000.00 for rent for March, 2020;
- \$1,000.00 liquidated damages contained in the tenancy agreement;
- \$100.42 unpaid hydro for January, 2020;
- \$122.37 unpaid hydro for February, 2020;
- \$52.40 advertising costs;
- \$45.00 to purchase 3 memory sticks;
- \$150.00 cleaning; and
- \$100.00 as recovery of the filing fee.

Copies of the hydro bills have also been provided for this hearing. The landlord testified that the rental unit was re-rented for April 1, 2020, and a copy of a new tenancy agreement with new tenants has been provided as evidence for this hearing.

Photographs and videos have also been provided, and the landlord testified that the photographs were taken on the 15<sup>th</sup> or 16<sup>th</sup> of February once the landlord became aware that the tenants had departed.

The tenants have not served the landlord with an Application for Dispute Resolution claiming the security deposit.

### Analysis

Firstly, I have reviewed the tenancy agreement which clearly states that the tenancy was for a fixed period of time to expire on March 31, 2020. I also accept the undisputed testimony of the landlord that the tenants moved out around February 9, 2020, without paying rent for that month, and I find that the landlord has established a monetary claim for February, 2020 rent in the amount of **\$2,000.00**.

Since rent is payable on the 1<sup>st</sup> day of each month, any notice that the tenants could have given the landlord, either on a fixed-term tenancy agreement or a month-to-month agreement, at any time after February 1, 2020 would not take effect until the end of March, 2020. Therefore, I find that the landlord has established a claim of **\$2,000.00** for March, 2020 rent.

The tenancy agreement also provides for liquidated damages if the tenants cause the tenancy to end prior to the end of the fixed term. Therefore, I am satisfied that the landlord has established a claim of **\$1,000.00** for liquidated damages. However, liquidated damages are a pre-determined cost to re-rent, and therefore, the landlord's claim of \$52.40 for advertising cannot succeed.

I have also reviewed the hydro bills, and I am satisfied that the landlord has established a claim of **\$122.57** for the February bill and **\$100.42** for the March, 2020 bill.

I note that on the move-in and move-out condition inspection reports, the move-in portion shows that the rental unit was clean, but not cleaned at the end of the tenancy by the tenants. Therefore, I am satisfied that the landlord has established a reasonable claim of **\$150.00** for cleaning.

The *Residential Tenancy Act* permits claims for recovery of the filing fee for a successful party, but not costs for preparing for a hearing, and therefore, the landlord's claim of \$45.00 to purchase memory sticks is also dismissed. However, since the landlord has been partially successful with the application, the landlord is entitled to recovery of the **\$100.00** filing fee.

The landlord testified that the tenants have not provided a forwarding address in writing, but the landlord had addresses for service of the tenants. The landlord currently holds a security deposit of \$1,000.00, and the law states that a tenant has 1 year to provide the landlord with a forwarding address. Given that the landlord has an address for service of the tenants, I find it prudent to order the landlord to keep the \$1,000.00 security deposit in partial satisfaction of the claim, and I grant the landlord a monetary order for the difference in the amount of **\$4,472.99** ( $\$2,000.00 + \$2,000.00 + \$1,000.00 + \$122.57 + \$100.42 + \$150.00 + \$100.00 = \$5,472.99 - \$1,000.00 \text{ security deposit} = \$4,472.99$ ).

### Conclusion

For the reasons set out above, I hereby order the landlord to keep the \$1,000.00 security deposit and I grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$4,472.99.

This order is final and binding and may be enforced.

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: December 14, 2020

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Residential Tenancy Branch