



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, MNRL-S

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order for damages of \$450.00, and a monetary order for unpaid rent in the amount of \$2,989.00, retaining the security deposit to apply to these claims.

The Landlord appeared at the teleconference hearing and gave affirmed testimony; however, no one attended on behalf of the Tenant. The teleconference phone line remained open for over 30 minutes and was monitored throughout this time. The only person to call into the hearing was the Landlord, who indicated that he was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct, and that the only person on the call, besides me, was the Landlord.

I explained the hearing process to the Landlord and gave him an opportunity to ask questions about the hearing process. During the hearing the Landlord was given the opportunity to provide his evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Tenant did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified that he served the Tenant with the Notice of Hearing documents by Canada Post registered mail, sent on September 18, 2020. The Landlord provided a Canada Post tracking number as evidence of service. I find that the Tenant was deemed served with the Notice of Hearing documents in accordance with the Act. I, therefore, admitted the Application and evidentiary documents, and I continued to hear from the Landlord in the absence of the Tenant.

### Preliminary and Procedural Matters

The Landlord provided the Parties' email addresses in his Application and confirmed his understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Landlord that pursuant to Rule 7.4, I would only consider his written or documentary evidence to which he pointed or directed me in the hearing.

### Issue(s) to be Decided

- Is the Landlord entitled to a monetary order, and if so, in what amount?

### Background and Evidence

The tenancy agreement states, and the Landlord confirmed that the periodic tenancy began on October 15, 2019, with a monthly rent of \$975.00, due on the first day of each month. The Landlord said that the Tenant paid him a security deposit of \$487.50, and no pet damage deposit.

The Landlord said that the Parties did not conduct an inspection of the rental unit prior to or at the start of the tenancy. He said they did a "walk through" at the end and "...it was extremely dirty, though not damaged."

The Landlord said that the rental unit was the lower level of a house and that it had been renovated in 2018, which included new moulding, baseboards, and laminate flooring throughout.

### **#1 MONETARY ORDER FOR DAMAGES → \$450.00**

In his claim and in the hearing, the Landlord said that although the rental unit was not left damaged, the Tenant moved out without cleaning or emptying garbage and some clothes from the rental unit. The Landlord claimed \$450.00 in compensation for the condition in which the rental unit was left by the Tenant. The Landlord said:

It took us two days to clean it and take an excessive amount of garbage out. There was dried dog pee on the floor, and we had to mop it a few times and leave windows open for hours for the pee odour. The dog chewed the baseboards.

The Landlord said that he had worked ten hours a day for two days to clean the rental unit. The Landlord submitted a number of photographs of the condition of the rental unit at the end of the tenancy. These photographs included the following:

- Boxes and other items left in the laundry room;
- Boxes, dishes, and garbage left throughout the kitchen;
- Garbage bag on a door handle;
- Clothes and garbage strewn about;
- Bags and empty beverage containers left throughout rental unit;
- Dishwasher filled with dirty dishes;
- Empty bag, boxes, and miscellaneous other left in refrigerator and freezer;
- Dirty kitchen sinks;
- Dirty microwave oven;
- Dirty stovetop and oven;
- Dirty toilet bowl;
- Multiple cigarette butts left on floor and planter of back porch; and
- Baseboard corners chewed by dog;

The Landlord also submitted two videos that he labelled as being of the Tenant's dog; however, the format of the videos was not supported by my computer system, so I was not able to view this evidence.

The Landlord said that the amount claimed for this, "is based on two days that I cleaned and went to the recycling depot. . . . It took me two days, eight hours a day. The dog urine was so strong, I left the windows."

## **#2     MONETARY ORDER FOR UNPAID RENT → \$2,989.00**

The Landlord's second claim was for a monetary order for unpaid rent of \$2,989.00, and he provided the following details of how much the Tenant paid for the six months prior to his moving out.

	MONTH	AMOUNT PAID	AMOUNT OWING
1	March 2020	\$500.00	\$475.00
2	April 2020	\$500.00	\$475.00
3	May 2020	\$500.00	\$475.00
4	June 2020	\$500.00	\$475.00
5	July 2020	\$0.00	\$975.00
6	August 2020	\$0.00	\$975.00
		<b>Sub-total</b>	\$3,850.00
	Less \$ received from	Govt. for pandemic	(\$900.00)
		<b>TOTAL</b>	<b>\$2,950.00</b>

The Landlord said that he received \$300.00 per month for three months from the government, which he deducted from the amount owed to him by the Tenant.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Before the Landlord testified, I advised him of how I analyze the evidence presented to me. I said a party who applies for compensation against another party has the burden of proving their claim on a balance of probabilities. Policy Guideline 16 sets out a four-part test that an applicant must prove in establishing a monetary claim. In this case, the Landlord must prove:

1. That the Tenant violated the Act, regulations, or tenancy agreement;
2. That the violation caused the Landlord to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the Landlord did what was reasonable to minimize the damage or loss.

("Test")

## **#1 MONETARY ORDER FOR DAMAGES → \$450.00**

Section 37 of the Act states that tenants must leave the rental unit “reasonably clean and undamaged”.

Policy Guideline #1 helps interpret section 37:

The tenant is also generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest. The tenant is not responsible for reasonable wear and tear to the rental unit or site (the premises), or for cleaning to bring the premises to a higher standard than that set out in the *Residential Tenancy Act* or *Manufactured Home Park Tenancy Act* (the Legislation).

Reasonable wear and tear refer to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion. An arbitrator may determine whether or not repairs or maintenance are required due to reasonable wear and tear or due to deliberate damage or neglect by the tenant. An arbitrator may also determine whether or not the condition of premises meets reasonable health, cleanliness and sanitary standards, which are not necessarily the standards of the arbitrator, the landlord or the tenant.

I find that the Landlord's evidence indicates that the Tenant left a lot of garbage and debris behind, and that he did not do a reasonable amount of cleaning. I find the Tenant breached section 37 of the Act by not leaving the rental unit reasonably clean and undamaged.

I find it is more likely than not that the urine smell required additional cleaning, and therefore, that the Landlord's claim of \$450.00 is not unreasonable. The Landlord said he worked for eight to ten hours a day for two days to ready the rental unit for another tenant after the Tenant left. This amounts to 16 hours of cleaning at approximately \$28.00 per hour (for eight hours a day). I find that a standard cleaning rate is between \$25.00 and \$30.00; therefore, I find what the Landlord charged to be reasonable in the circumstances. Accordingly, I award the Landlord with **\$450.00** from the Tenant for this claim.

## **#2 MONETARY ORDER FOR UNPAID RENT → \$2,950.00**

Section 26 of the Act states: “A tenant must pay rent when it is due under the tenancy

agreement, whether or not the landlord complies with the 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.” There is no evidence before me that the Tenant had a right to deduct any portion of the rent from the monthly rent due to the Landlord. Further, the Tenant did not attend the hearing to dispute the Landlord’s claims in this regard.

However, my calculation of the amounts the Landlord said the Tenant owes in unpaid rent comes to \$3,850.00, less \$900.00 the Landlord said he received from the government for the Tenant’s support payments, equals \$2,950.00, rather than the \$2,989.00 the Landlord claimed in his Application.

As a result, and pursuant to sections 26 and 67 of the Act, I award the Landlord with **\$2,950.00** in unpaid rent from the Tenant.

#### Summary and Set Off

I find that these claims meet the criteria under section 72(2)(b) of the Act to be offset against the Tenant’s security deposit of \$487.50 in partial satisfaction of the Landlord’s monetary awards.

The Landlord is awarded compensation from the Tenant in the amount of \$3,400.00. The Landlord is authorized to retain the Tenant’s \$487.50 security deposit in partial satisfaction of this award. I grant the Landlord a Monetary Order of **\$2,912.50** from the Tenant for the remainder owing in the compensation awarded.

#### Conclusion

The Landlord is successful in his Application, as he provided sufficient evidence to establish an entitlement to a monetary award of \$3,400.00 from the Tenant.

The Landlord is authorized to retain the Tenant’s \$487.50 security deposit in partial satisfaction of this award. I grant the Landlord a Monetary Order under section 67 of the Act from the Tenant in the amount of **\$2,912.50**.

This Order must be served on the Tenant by the Landlord and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: January 06, 2021

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Residential Tenancy Branch