



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding TRG THE RESIDENTIAL GROUP  
REALTY and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MNDCL, MNSD, FFL

### Introduction

On October 27, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking a monetary order for unpaid rent and cleaning costs, and to keep the security deposit, and/or pet damage deposit.

This matter was set for hearing by telephone conference call at 1:30 pm on this date. The Landlord’s agent (“the Landlord”) appeared at the hearing; however, the Tenant did not. The line remained open while the phone system was monitored for ten minutes and the Tenant did not call into the hearing during this time.

On November 6, 2020 the Landlord received authorization from the Residential Tenancy Branch to serve the Notice of Dispute Resolution Proceeding to the Tenant using email. The Landlord testified that he sent the Notice of Dispute Resolution Proceeding to the Tenant via email on November 10, 2020. The Landlord testified that the Tenant responded to the email service and asked questions about the Landlords claims. The Landlord provided a copy of the email that was sent to the Tenant on November 10, 2020 which included attachments containing the Notice of Dispute Resolution Proceeding.

I find that the Tenant was sufficiently served with notice of the hearing for the purposes of the Act and failed to attend the hearing to respond to the Landlord’s claims.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the Landlord entitled to a monetary order for cleaning costs?
- Can the Landlord keep the security deposit towards their claims?
- Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The Landlord testified that the tenancy began on January 15, 2020 as a one-year fixed term tenancy to continue until January 14, 2021. Rent in the amount of \$1,900.00 was to be paid by the fifteenth day of each month. The Tenant paid the Landlord a security deposit of \$950.00. The Landlord provided a copy of the tenancy agreement.

### Unpaid Rent

The Landlord testified that the Tenant broke the fixed term tenancy agreement by moving out of the rental unit on September 24, 2020, prior to the end of the fixed term agreement.

The Landlord testified that the Tenant failed to pay the rent owing for September 2020. The Landlord testified that the Landlord was not able to find a new Tenant for the rental unit until November 2020 and the Landlord suffered a loss of October 2020 rent.

The Landlord is seeking a monetary order for unpaid September 2020 and October 2020 rent in the amount of \$3,800.00.

### Cleaning Costs

The Landlord testified that the Tenant left the rental unit unclean. The Landlord stated that the Tenant did not do any cleaning. The Landlord hired a cleaning company to clean the unit at a cost of \$280.00. The Landlord provided a copy of the invoice for cleaning. The Landlord is seeking compensation of \$280.00.

### Security Deposit

The Landlord is seeking to keep the security deposit of \$950.00 in partial satisfaction of the claim for unpaid rent. The Landlord stated that the Tenant never provided the Landlord with a forwarding address in writing.

### Analysis

The party making a claim for compensation against another party bears the burden of proof. Section 7 of the Act provides that if a Landlord or Tenant does not comply with the Act, the regulations, or their tenancy agreement, the non-complying Landlord or Tenant must compensate the other for damage or loss that results.

To be successful with a claim for compensation an applicant must prove:

1. That the other party breached the Act, regulation, or tenancy agreement.
2. That the breach caused the party making the application to incur damages or loss as a result of the breach.
3. The value of the loss; and,
4. That the party making the claim took reasonable steps to minimize the damage or loss.

Residential Tenancy Policy Guideline # 3 Claims for Rent and Damages for Loss of Rent provides the following information:

*The damages awarded are an amount sufficient to put the landlord in the same position as if the tenant had not breached the agreement. As a general rule this includes compensating the landlord for any loss of rent up to the earliest time that the tenant could legally have ended the tenancy.*

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I make the following findings:

I find that the parties entered into a fixed term tenancy to continue until January 14, 2021. I find that the Tenant breached the tenancy agreement by moving out prior to the end of the fixed term agreement. I find that the Tenant is responsible to pay the rent under the agreement until such time as the Landlord could find a new tenant. I accept the Landlord's testimony that a new Tenant was found in November 2020.

I find that the Tenant is responsible to pay the rent owing under the tenancy agreement for the months of September 2020 and October 2020. I find that the Tenant owes the Landlord the amount of \$3,800.00.

### Cleaning

I accept the Landlord's testimony that the rental unit required cleaning after the Tenant vacated. I grant the Landlord the amount of \$280.00 for cleaning costs.

### Security Deposit

I authorize the Landlord to keep the security deposit of \$950.00 towards the award for unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$4,180.00 comprised of \$3,800.00 for unpaid rent, \$280.00 for cleaning costs; and the \$100.00 fee paid by the Landlord for this hearing. After setting off the security deposit of \$950.00 towards the award of \$4,180.00, I find that the Landlord is entitled to a monetary order in the amount of \$3,230.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

### Conclusion

The Tenant moved out of the rental unit prior to the end of the fixed term tenancy agreement and is responsible to pay the rent until a new tenant was found. The Tenant owes the Landlord for unpaid September 2020 and October 2020 rent.

The Tenant left the rental unit unclean and is responsible to pay the costs of having the unit cleaned.

The Landlord has established a monetary claim in the amount of \$4,180.00. I order that the Landlord can keep the security deposit in the amount of \$950.00 in partial satisfaction of the Landlord's claim.

I grant the Landlord a monetary order in the amount of \$3,230.00.

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: February 24, 2021

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Residential Tenancy Branch