



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Hastings Holdings 2015 Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      **MNDL-S, MNRL-S, MNDCL-S, FFL**

### **Introduction**

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent, damages and loss pursuant to section 67;
- authorization to retain the security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 10 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The corporate landlord was represented by their agent (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served the tenant with the notice of application and evidence by registered mail sent on December 9, 2020 to the forwarding address provided by the tenant. The landlord submitted correspondence from the tenant providing their forwarding address and a valid Canada Post tracking receipt as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials on December 14, 2020, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

### **Issue(s) to be Decided**

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to retain the deposit for this tenancy?

Is the landlord entitled to recover the filing fee from the tenant?

### Background and Evidence

The landlord provided undisputed evidence regarding the following facts. This fixed-term tenancy began in June, 2020 and ended October 30, 2020. The monthly rent was \$1,000.00 payable on the first of each month. A security deposit of \$500.00 and a FOB deposit of \$50.00 were collected at the start of the tenancy and are still held by the landlord.

The tenant failed to pay rent for the months of September and October 2020 and there is an arrear of \$2,000.00 for this tenancy. The parties agreed to a move-out inspection on October 30, 2020. The tenant failed to attend at the scheduled time to participate in the move-out inspection. The landlord prepared a condition inspection report without the tenant. The landlord noted multiple deficiencies in the rental unit caused by the tenant requiring maintenance, repairs and cleaning. The landlord submitted into evidence receipts and invoices for the work done which total \$1,582.00.

The landlord testified that the state of the rental unit took considerable time to rectify and they were unable to offer it to new occupants until November 15, 2020. The landlord seeks a monetary award for loss of rental income in the amount of \$500.00, the equivalent of half a month's rent.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the undisputed evidence of the landlord that there is a rental arrear for this tenancy in the amount of \$2,000.00. I am satisfied with the evidence by way of the rental ledger and the landlord's testimony.

I accept the evidence of the landlord that the rental unit required various maintenance, repairs and cleaning due to its condition. I find that the condition inspection report

prepared by the landlord and the photographs of the suite to be sufficient to establish that work was required. I find that the invoices and receipts submitted show the work undertaken to be reasonable and commensurate with the condition of the suite and necessary to restore the suite to its pre-tenancy condition. I therefore find the landlord has met their evidentiary burden to show losses of \$1,582.00 and issue a monetary award in that amount.

I accept that the landlord incurred loss of rental income as they were unable to offer the suite to new occupants due to the cleaning and work required. Accordingly, I issue a monetary award in the amount of \$500.00 as claimed.

As the landlord was successful in their application they are entitled to recover the filing fee from the tenant.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security deposit and FOB deposit in partial satisfaction of the monetary award issued in the landlord's favour

### Conclusion

I issue a monetary order in the landlord's favour in the amount of \$3,632.00, allowing for the recovery of unpaid rent, damages and recovery of the filing fee and to retain the deposits for this tenancy. 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 19, 2021

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Residential Tenancy Branch