



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

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

### Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

The landlord's agent attended the hearing ("the landlord") and had the opportunity to call witnesses and present affirmed testimony and written evidence. The hearing process was explained, and an opportunity was given to ask questions about the hearing process.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 28 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

The landlord testified a process server personally served the Notice of Hearing on the tenant on January 13, 2021 and a Proof of Service in the RTB form confirming service was submitted. The landlord testified a process server personally served the evidence

package on the tenant on April 29, 2021. Considering the Proof of Service and the uncontradicted evidence of the landlord, further to section 89, I find the landlord served the tenant on with the Notice of Hearing on January 13, 2021 and with the evidence package on April 29, 2021.

Although I have reviewed all documentary evidence and testimony before me that was accepted for consideration in this matter in accordance with the Residential Tenancy Branch Rules of Procedure (the Rules of Procedure), I refer only to the relevant and determinative facts, evidence and issues in this decision.

At the request of the landlord, copies of the decision and any orders issued in favor of the landlord will be emailed to them at the email address confirmed in the hearing.

#### Issue(s) to be Decided

Is the landlord entitled to the relief requested?

#### Background and Evidence

The landlord stated that one-year fixed term of the tenancy commenced on August 15, 2019, and ended on August 15, 2020, after which time the tenancy continued on a month to month (periodic) basis. The landlord stated that rent in the amount of \$1,475.00 is due on the first day of each month and that a security deposit in the amount of \$737.50 was paid, which is still held in trust by the Landlord. The landlord submitted a copy of the agreement.

The landlord stated that an Order of Possession was granted on January 4, 2021 under an RTB file, reference to which appears on the first page.

The landlord stated that the tenant suddenly vacated the unit “in the night” on January 9, 2021 without providing a forwarding address. The sum of \$8,742.00 remains owing for outstanding rent.

The landlord stated that a condition inspection report was conducted on moving in and signed by both parties; a copy was submitted in evidence. The landlord conducted an inspection alone after the tenant vacated as the landlord did not know where the tenant had gone.

The landlord testified that damage to the unit was observed after the tenant moved out

and the unit needed cleaning, observations which are reflected in the report. The landlord testified the unit was filthy and damaged requiring repairs. The landlord completed the inspection report and submitted it as evidence.

The landlord submitted a copy of a cleaning receipt along with supporting photographs of the condition of the unit when the tenant vacated.

The landlord stated that the tenant damaged the appliances, a fridge and stove, which were five years old and required replacing. The landlord claimed compensation for the remaining life of the appliances according to the RTB Policy Guideline # 40.

The landlord stated that the unit was extensively damaged requiring labour and materials to repair. Debris and garbage were left by the tenant in the unit and the landlord incurred removal and tipping fees. The landlord submitted photographs and receipts supporting these expenses.

The landlord applied for Dispute Resolution on January 12, 2021.

The landlord submitted a Monetary Order Worksheet. During the hearing, the landlord clarified the expenses claimed as follows:

ITEM	AMOUNT
Rent outstanding	\$8,742.00
Replacement appliances (2/3 value claimed)	\$1,303.75
Cleaning	\$1,286.25
Dump fees	\$133.67
Repairs – labour and materials	\$1,826.80
Application fee	\$100.00
<b>TOTAL CLAIM – DAMAGES and COMPENSATION</b>	<b>\$13,392.47</b>

The landlord requested authorisation to apply the security deposit to the award and a Monetary Order as requested, summarized as follows:

Monetary Award (above)	\$13,392.47
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(Less security deposit)	(737.50)
<b>TOTAL MONETARY ORDER REQUESTED</b>	<b>\$12,654.97</b>

### Analysis

I have considered all the submissions and evidence presented to me, including those provided in writing and orally. I will only refer to certain aspects of the submissions and evidence in my findings.

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the Act, regulations, or a tenancy agreement.

Section 7(1) of the Act provided that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-complying party must compensate the other for damage or loss that results.

To claim for damage or loss, the claiming party bears the burden of proof on a balance of probabilities; that is, something is more likely than not to be true. The claimant must establish four elements.

1. The claimant must prove the existence of the damage or loss.
2. Secondly, the claiming party must that the damage or loss stemmed directly from a violation of the agreement or a contravention on the part of the other party.
3. Once those elements have been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.
4. Finally, the claimant has a duty to take reasonable steps to reduce, or mitigate, their loss.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

In this case, the onus is on the landlord to prove the landlord is entitled a claim for a monetary award. The landlord provided believable testimony supported in all material aspects by well-organized and comprehensive documents,

I have considered all the evidence submitted by the landlord, including the receipts, the photographs showing the unit needed cleaning and repairs, and the condition inspection report on moving in (signed by tenant) and moving out (not signed by tenant).

Taking into account the evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities that the unit needed cleaning when the tenant vacated, the tenant is responsible for the lack of cleanliness, the landlord incurred the amount claimed in cleaning expenses, and the landlord took all reasonable steps to mitigate expenses. I find the landlord is entitled to a monetary award in the amount requested for this aspect of the claim.

As well, in considering all the above-mentioned evidence and testimony, I find the landlord has met the burden of proof on a balance of probabilities that appliances (fridge and stove) had to be replaced, the unit needed repairs when the tenant vacated, and the tenant left garbage which had to be removed (all of which are referred to as “the damage”). I find the tenant is responsible for the damage, the landlord incurred the amount claimed in repairs and replacement of the appliances, the amounts are reasonable and supported by the evidence, and the landlord took all reasonable steps to mitigate expenses. I find the damage is more than ‘reasonable wear and tear’. I find the landlord is entitled to a monetary award in the amounts requested for these aspects of the claim.

I accept the landlord’s testimony that the tenant vacated the unit in January 2021 and the amount of \$8,742.00 is owing for outstanding rent.

I find the landlord has met the burden of proof on a balance of probabilities with respect to all aspects of the landlord’s claim.

As the landlord has been successful in this matter, I award the landlord reimbursement of the filing fee in the amount of \$100.00.

I grant an award to the landlord in the amount of **\$13,392.47**. My award to the landlord is summarized as follows:

ITEM	AMOUNT
Rent outstanding	\$8,742.00
Replacement appliances (2/3 value claimed)	\$1,303.75
Cleaning	\$1,286.25
Dump fees	\$133.67

Repairs – labour and materials	\$1,826.80
Application fee	\$100.00
<b>TOTAL CLAIM - DAMAGES</b>	<b>\$13,392.47</b>

I authorize the landlord to apply the security deposit to the award and grant a Monetary Order of **\$12,654.97** as follows:

Monetary Award (above)	\$13,392.47
(Less security deposit)	(737.50)
<b>MONETARY ORDER</b>	<b>\$12,654.97</b>

### Conclusion

The landlord is entitled to a Monetary Order in the amount of **\$12,654.97**

This Order must be served on the tenant. If the tenant fails to comply with this Order the landlord may be filed the order in the Provincial Court (Small Claims) to be 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: May 13, 2021

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Residential Tenancy Branch