



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDL-S, FFL

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damage to the unit - Section 67;
2. An Order to retain the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

### Preliminary Matters

The Tenant did not attend the hearing. Pursuant to section 71(2)(c) of the Act I accept the Landlord’s undisputed evidence of service and find that the Tenant was sufficiently served with the application for dispute resolution, notice of hearing and evidence (the “Package”) by priority mail on January 15, 2021 to the dispute unit address prior to the end of the tenancy. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of the mail I find that the Tenant is deemed to have received the Package on January 20, 2021. On February 10, 2021, the Landlord sent additional evidence to the Tenant’s mailbox address, given to the Landlord from the Tenant on November 25, 2020. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

The Landlord provided a monetary order worksheet detailing costs for damages totalling \$4,370.74. The Landlord’s application sets out a total cost for these damages at

\$2,839.00. The Landlord did not amend its application to increase its claim to the amount set out in the monetary order worksheet.

Rule 2.2 of the Residential Tenancy Branch Rules of Procedure provides that claims are limited to what is stated in the application. The Landlord chose not to withdraw its application and agreed to limit its claims to \$2,839.00 as set out in the application.

#### Issue(s) to be Decided

Is the Landlord entitled to the monetary amount claimed?

#### Background and Evidence

The tenancy under written agreement started on February 1, 2019. Rent of \$1,500.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$750.00 as a security deposit. The Parties mutually conducted a move-in inspection with a completed report copied to the Tenant. In November 2020 the Tenant informed the Landlord that it would be away for a period of time during which the Tenant's sons would occupy the unit. The Landlord provides a copy of this letter. The Tenant did not indicate that the tenancy was ending but provided an address for any mail communication with the Tenant while away. The Landlord believed the Tenant to be on an extended vacation. The tenancy ended on January 31, 2021 after the Landlord had served the Tenant with a one-month notice to end tenancy in December 2020.

Leading up to the end of the tenancy the Landlord found damages to the unit and despite requests from the Landlord these damages were not repaired. At the end of the tenancy the Landlord made two offers for opportunities to conduct a move-out inspection however no person attended the inspection and the unit was left with the damages. The Landlord provides a copy of the written notices for the inspection, including a copy of the approved form for a final inspection offer. The Landlord conducted the move-out inspection alone and provides a copy of the completed report.

Since the tenancy ended that Landlord has not received any forwarding address from the Tenant.

The unit was left with extensive damage to the walls, ceilings, doors, door mouldings and window trims. The Landlord provides photos. The Landlord claims the costs of supplies and labour to make the repairs and paint the unit. The unit was last painted in December 2018. The Landlord provides an invoice in excess of the amount claimed.

### Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. Based on the undisputed evidence of the damages to the unit and given the invoice to support the costs for the repairs made to the unit I find that the Landlord has substantiated its claim to **\$2,839.00**. As the Landlord has been successful with its claim, I find that the Landlord is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$2,939.00**.

Section 72(2)(b) of the Act provides that if the director orders a party to a dispute resolution proceeding to pay any amount to the other, including the filing fee, the amount may be deducted in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant. Based on the undisputed evidence of the Tenant's payment of the security deposit and given the Landlord's entitlement, I deduct the security deposit plus zero interest of **\$750.00** from the Landlord's entitlement of **\$2,939.00** leaving **\$2,189.00** owed by the Tenant.

### Conclusion

I Order the Landlord to retain the security deposit plus interest of \$750.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act

for the remaining **\$2,189.00**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: May 19, 2021

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Residential Tenancy Branch