



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the “Act”), for a monetary order for monetary loss or other money owed, for damages to the unit, for an order to retain the security deposit in full satisfaction of the claim and to recover the cost of the filing fee.

This matter was originally scheduled for February 9, 2021. No one appeared and the landlord’s application on February 10, 2021, was dismissed with leave to reapply. On February 12, 2021, the landlord applied for a review consideration on the grounds that they were unable to attend the original hearing. On February 23, 2021, the landlord’s application for a new hearing was granted.

The Arbitrator ordered the parties to participate in a new hearing, and the original decision was suspended. The Arbitrator at the new hearing may confirm, vary, or set aside the original decision.

The landlords attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution was sent by registered mail on October 28, 2020, Canada post tracking number were provided as evidence of service. The landlord stated that the tenant FK and LH signed for those packages and the tenant JE packaged was returned unclaimed.

The landlords testified the Application for Dispute Resolution ,Notice of Hearing for today’s date, evidence and the copy of the review decision were sent by registered mail on February 24, 2021 to each of the tenants. The landlord stated that all three packages were returned unclaimed. Canada post tracking number were provided as evidence of service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenants have been duly served in accordance with the Act.

The landlord appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

#### Issues to be Decided

Is the landlord entitled to monetary compensation for damages or other money owed?  
Is the landlord entitled to retain the security deposit in full satisfaction of the claim?

#### Background and Evidence

The tenancy original began approximately 18 months before the tenancy end. During this time there have been two subsequent tenancy agreements, changing the tenants. The current tenancy began on April 7, 2020, with the three named tenants in the landlord's application. Rent in the amount of \$2,125.00 was payable on the first of each month. The tenants paid a security deposit of \$1,000.00. The tenancy ended on September 30, 2020.

The landlord claims as follows:

a.	Cleaning and damages	\$ 88.84
b.	Excessive water consumption	\$609.37
c.	Filing fee	\$100.00
	<b>Total claimed</b>	<b>\$798.21</b>

The landlord testified that there were some deficiencies in the cleaning as the person the tenants hired to do the cleaning, did not do a very good job. The landlord stated that the blinds had not been cleaned on both sides and only partly on one side. The landlord stated the oven need to be put through the self-clean cycle and carpet runner had to be cleaned. The landlord stated that at the end of the tenancy the tenants agreed that the landlord could recover \$60.00 for cleaning; however, this was done verbally. The landlord seeks to recover the cost of \$60.00 for cleaning.

The landlord testified that five-metal hooks in the ensuite walk-in closet had been broken and the tenants agreed verbally that they would pay for the cost. The landlord seeks to recover the cost of the hooks in the amount of \$28.84.

The landlord testified that although water was included in the rent; however, they received notification from the water board that an excessive amount of water had been consumed,

The landlord testified that they inspected all the interior pipes, faucets, toilets and there was nothing leaking. The landlord stated that they also had the water board attend and they inspected the water line and no leak was found, and they also had the water line from the meter to the house checked and there was no leak found.

The landlord testified that they do not consume much water as they have no lawn to water and do not wash cars. The landlord stated that the only possible way for this excessive consumption would be that the tenants must have left a faucet on when they were away on a weekend, which they often were.

The landlord testified that they have provided a copy of the water history for the prior six months shows the average billing was between \$55.40 and \$79.22. However, the billing dated September 23, 2020, was the amount of \$686.93, which the difference in consumption had gone from 35-48 Cubic meters to 310 cubic meters.

The landlord testified that they should be entitled to recover the difference between what they compared past history of \$77.56 was and the abnormal excessive bill of \$686.93. The landlord seeks to recover the cost of excessive water consumption in the amount of \$609.37.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

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

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

In this case, I am satisfied that the tenants are fully aware of the claim. Two of the tenants signed for the original packages and the package sent on February 24, 2021 were returned unclaimed. I find it reasonable to conclude that the landlord's application is unopposed.

How to leave the rental unit at the end of the tenancy is defined in Part 2 of the Act.

### **Leaving the rental unit at the end of a tenancy**

*37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.*

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

I accept the landlord's evidence that some cleaning need to be done to the rental unit as described above and that there were some hooks broken in the ensuite closet. I find the tenants breached the Act, when they failed to clean the items described and when they failed to repair the broken hooks. Therefore, I find the landlord is entitled to recover the reasonable cost of **\$88.84**.

I accept the landlord's evidence that water is normally included in the rent; however, this is for normal use. The water bill dated September 23, 2020, shows that the amount was excessive as 310 cubic meters of water were consumed at most the normal consumption was 48 cubic meters. The landlord checked all plumbing fixtures, the water line from the house to the meter and the meter was inspected by the water board, no leaks were found. I find it reasonable to concluded that the tenants' must have left the water running, as there is no other possible explanation for such a high consumption, this is neglect on the part of the tenants. Therefore, I grant the landlord the difference between the past history consumption and the bill of September 23, 2020 for the total amount of **\$609.37**.

I find that the landlord has established a total monetary claim of **\$798.21** comprised of the above described amount) and the \$100.00 fee paid for this application.

I order that the landlord retain the amount of \$798.21 from the security deposit of **\$1,000.00** in full satisfaction of the claim. This leave a balance due of the security deposit of \$201.70, that must be returned to the tenants.

The landlord at the conclusion asked which tenant they should send the above amount too, as they do not live in the same residence. The landlord stated that the original security deposit was paid by the tenant FK.

In this case there are three tenants on the current tenancy agreement. However, as FK paid the security deposit when the original tenancy commenced, and that security deposit has simply transferred to the subsequent tenancy agreements. I find it

reasonable for the landlord to return the balance of the security deposit to FK, any dispute between the tenants on how that amount should be allocated between them is an issue they will have determine on their own.

Based on the above, the original decision is varied and replaced with this Decision.

Conclusion

The landlord is granted a monetary order and may keep a portion of the security deposit in full satisfaction of the claim. I order the balance due of the security deposit shall be returned to the tenant FK.

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 20, 2021

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Residential Tenancy Branch