



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

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

### Introduction

This hearing dealt with the landlords' 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 all or a portion of the tenant's 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 15 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 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 was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they served the tenant with the notice of application and evidence by email in accordance with a Substituted Service decision of February 16, 2021 on February 18, 2021. Based on the landlord's undisputed evidence I find that the tenant is deemed served with the landlord's materials on February 23, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Are the landlords entitled to a monetary award as claimed?  
Are the landlords entitled to retain the deposits for this tenancy?  
Are the landlords entitled to recover their filing fee from the tenant?

Background and Evidence

The landlord gave undisputed evidence regarding the following facts. This periodic tenancy began in November 2018. Monthly rent is \$2,000.00 payable on the first of each month. A security deposit of \$1,000.00 and a FOB deposit of \$100.00 were collected at the start of the tenancy and are still held by the landlords.

During the tenancy the tenant failed to pay full rent for several months and there is a rental arrear of \$6,000.00 as at the date of the hearing. The tenant abandoned the rental unit sometime in January 2021 without provided proper notice to the landlord, returning the keys and FOB for the rental property or participating in a move-out inspection of the suite.

When the landlord inspected the rental unit in the tenant's absence, they found it in need of cleaning, garbage disposal and some maintenance work. The landlord submitted into documentary evidence copies of receipts and invoices for the work performed and says the total expenditures incurred due to the tenant is \$988.40.

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 am satisfied that there was an enforceable tenancy agreement between the parties wherein the tenant was obligated to pay rent in the amount of \$2,000.00 on the first of each month. I accept the undisputed evidence that the tenant failed to pay full rent as required and there is an arrear of \$6,000.00 as at the date of the hearing.

I find the landlord has established on a balance of probabilities that they incurred losses due to the tenant's failure to clean the rental unit at the end of the tenancy. I am satisfied with the evidence including the landlord's testimony and the invoices and receipts submitted that the work incurred was reasonable and proportional to the state of the rental unit. I therefore issue a monetary award in the landlords' favour in the amount of \$988.40 for the damage to the rental unit.

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

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

### Conclusion

I issue a monetary order in the landlords' favour in the amount of \$5,988.40, allowing the landlords to recover the rental arrear and cost of cleaning as well as the filing fee for this application and retain the deposits.

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: June 10, 2021

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Residential Tenancy Branch