



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, MNRL-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 and for damage to the unit pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence.

The landlord was advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on February 26, 2021 and has submitted a copy of a online search of the Canada Post Website which shows that the package was delivered on March 1, 2021. I accept the undisputed affirmed evidence of the landlord and find that the tenant was properly served as per sections 88 and 89 of the Act. Despite not attending the hearing, I find that the tenant is deemed served as per section 90 of the Act.

During the hearing the landlord clarified that the monetary claim sought is for \$4,620.50 which does not include the \$750.00 security deposit which the landlord has already received permission from the tenant to retain as shown in the submitted copy of the completed condition inspection report for the move-out. On this basis, the landlord cancelled the request to offset the landlord's claim against the security deposit. The landlord also clarified that the tenant was already given a credit of \$978.72 in consideration of the useful life of the damages for normal wear and tear.

### Issue(s) to be Decided

Are the landlords entitled to a monetary order for damage, for unpaid rent and recovery of the filing fee?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on August 1, 2019 as per the submitted copy of the signed tenancy agreement dated July 22, 2019. The monthly rent was \$1,500.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$750.00 was paid.

The landlords seek a monetary claim of \$4,620.50 which consists of:

\$3,370.50	Damage,	
\$413.54	Carpet Stair Replacement	
\$24.00	Dump Fees	
\$3,370.50	Painting/Repairs	
\$1,150.00	Cleaning/Garbage Removal (labour, 46 hours@\$25/hr.)	
\$141.18	Burned/Broken Seats X2	
\$1,150.00	Unpaid Rent, September 2020, Pro-Rated Rent for 23 days	
\$4,520.50		
\$100.00	Filing Fee	

The landlord's agent (the landlord) stated that the tenant vacated the rental unit leaving it damaged, dirty and with unpaid rent.

The landlord stated that the tenant was evicted on September 23, 2020 as a result of an order of possession and seeks only the pro-rated unpaid rent of 23 days for September 2020 of \$1,150.00 as no rent for September was paid.

The landlord stated that upon possession of the rental unit the landlord found the rental property extensively dirty and damaged as shown in the submitted photographs of the rental property. A review of the referred to photographs show ripped stairwell carpet which was also stained with dog urine. The landlord claims that the carpet was not repairable or cleanable and required replacement for a cost of \$413.54 as shown by the submitted invoice dated October 17, 2020. The landlord claims that the tenant left the unit with "lots of garbage" as shown in the submitted photographs which required a trip to the dump which resulted in fees of \$24.00 as shown by the submitted receipt. The landlord referred to extensive wall damage requiring repairs and re-painting; damaged and missing kitchen cabinet face boards; damaged cabinet door which required sanding and re-finishing; a ripped window screen; missing kitchen cabinet doors (for a lazy susan); a missing handrail for the stairwell; damaged blinds requiring replacement; holes in multiple doors; damaged walls; burned toilet seats; and damaged flooring. The landlord submitted numerous photographs documenting the condition of the rental unit showing damage at the end of the tenancy. The landlord submitted a copy of an estimate for \$3,370.50 which the landlord confirmed in her direct testimony was paid for services. The landlord also stated that a cleaner was hired to clean the rental unit which required 46 hours at \$25.00/hour. The landlord submitted a photograph of a receipt for the cost of replacing two toilet seats at \$141.18.

### 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. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

I accept the undisputed affirmed evidence of the landlord and find on a balance of probabilities that the landlord has established a claim for \$4,620.50 which also includes the \$100.00 filing fee. The landlord provided undisputed photographs and invoices/receipts as well a completed condition inspection report signed by the tenant acknowledging the condition of the rental unit and acceptance of the recorded damage at the end of the tenancy.

### Conclusion

The landlord is granted a monetary order for \$4,620.50.

This order must be served upon the tenant. Should the tenant fail to comply with this order, the 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: July 06, 2021

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Residential Tenancy Branch