



# 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 dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for damage to the rental 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, I.M. attended the hearing via conference call and provided undisputed affirmed testimony. The landlord, H.M. did not attend and was represented by the co-landlord, I.M (the landlords) as her agent. The tenant did not attend or submit any documentary evidence.

The landlord 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 landlords provided undisputed affirmed evidence that the tenant was served with the notice of hearing package via Canada Post Registered Mail. The landlords also stated that the tenant was served with the submitted documentary evidence via Canada Post Registered Mail on September 20, 2021 and has submitted a copy of the Canada Post online search results, Customer Receipt and Tracking label. I accept the undisputed affirmed evidence of the landlord and find on a balance of probabilities that the tenant was sufficiently served as per section 71 of the Act with the notice of hearing package and the submitted documentary evidence.

Issue(s) to be Decided

Are the landlords entitled to a monetary order for damage and recovery of the filing fee?  
Are the landlords entitled to retain all or part of the security deposit?

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.

The landlord stated that monthly rent was \$1,000.00; the tenant paid a \$500.00 security deposit and a \$500.00 pet damage deposits and that the tenancy ended on March 31, 2020.

The landlords seek an amended monetary claim of \$2,730.23 which consists of:

\$78.75	Repair Corner Wall
\$14.80	Repair Door Stop
\$52.50	Clean burned stove top
\$52.50	Repair Entrance Deck
\$62.50	Repair Front Deck
\$16.25	Repair Side yard, holes/rocks
\$25.00	Replace Christmas lights
\$1,623.00	Repair Basement Flooring
\$204.93	Travel /labour
\$500.00	Loss of Rental Income, ½ months rent
\$100.00	Filing Fee
\$2,730.23	

The landlords claim that the tenant vacated the rental unit leaving it damaged. The landlords clarified that no work to repair any of the damage(s) has yet been done and no expenses have yet been incurred. The landlords claims are based upon the landlord, I.M.'s own personal research on material costs and labour costs for a "red seal" carpenter. The landlord stated that he is not a "red seal" carpenter but is a skilled carpenter who can make all the necessary repairs himself to save both the landlords and the tenant any additional expenses.

The landlords stated that damage was found throughout the rental unit which appears to be caused by her dog "chewing" various items listed above. The landlords stated that at the start of the tenancy no damage was noted as per the submitted copy of the signed and dated Condition Inspection Report for the move-in and the move-out by both parties. The landlords have submitted photographs of the above noted claims in which it appears that a dog chewed on the wall, door stop, deck and left holes in yard. The landlords claims that this will require the landlords to make repairs based upon the above noted amounts. The landlord submitted one emailed quote from a local flooring company regarding the cost of the flooring materials only. The landlords stated that he will need to travel to the local materials store to obtain the necessary items to make repairs. The landlord also stated that the rental unit is currently re-rented and the landlord also seeks recovery of lost rental income of \$500.00 = ½ months rent. The landlords claim that he will lose approximately ½ months rent due to the length of time for him to make all the necessary repairs himself. The landlords confirmed that the rental unit was immediately re-rented and that there was not loss of rental income based on the condition of the rental unit. The landlords also stated that they do not plan to make any of the noted repairs until the rental unit is vacant.

### 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.

In this case, I accept the undisputed affirmed evidence of the landlords and find that the landlords have provided sufficient evidence to satisfy me that the tenant vacated the rental unit leaving it damaged as per the submitted photographs; the completed condition inspection report for the move-in and the move-out and the landlords undisputed testimony regarding the costs that will be incurred to make the necessary repairs. The landlords have established a total monetary claim of \$2,130.23.

However, the landlords claim regarding the loss of rental income of \$500.00 equal to ½ months rent to accommodate a vacant tenancy to make all the necessary repairs is pre-mature. I note that any repairs noted by the landlord will require some time, but there is no evidence before me that the landlords will require the tenancy to be vacant. I note that the landlords provided undisputed evidence that the unit was re-rented with no loss in rental income. I also note that the landlords provided evidence that they will not require the new tenant to vacate the rental unit to begin the repairs and that no repairs shall be made until the rental unit is vacant. On this basis, this portion of the landlords' claim is dismissed with leave to reapply as it is pre-mature..

The landlords are entitled to recovery of the \$100.00 filing fee. I authorize the landlords to retain the \$500.00 security deposit and the \$500.00 pet damage deposits in partial satisfaction of this claim.

### Conclusion

The landlords are granted a monetary order for \$1,230.23.

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: October 14, 2021

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Residential Tenancy Branch