



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **MNDCL, MNDL, FFL**

### Introduction

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

- a monetary order for unpaid utilities and damages pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Both parties were represented at the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord was represented by their agent FM (the "landlord"). The tenant represented themselves. While the tenant had a witness prepared they did not call them to give testimony.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

### Issue(s) to be Decided

Is the landlord entitled to a monetary award as claimed?

Is the landlord entitled to recover the filing fee from the tenant?

### 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 arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

This tenancy began in 2018 and ended on October 31, 2020. The rental unit is a basement suite in a detached home. Monthly rent was \$3,300.00 payable on the first of each month. The security deposit for this tenancy has been dealt with in accordance with an earlier decision under the file number on the first page of this decision and is no longer held by the landlord.

The signed tenancy agreement provides that the tenant is responsible for paying 40% of the utilities for the property. The landlord claims a utility arrear of \$734.07. The tenant testified that they agree that utilities are owing in that amount.

The parties completed a condition inspection report at the start of the tenancy. The parties participated in a move-out inspection on October 31, 2021 but did not agree on the assessment of damages to the rental unit and the tenant declined to sign the inspection report. A copy of the inspection report was submitted into evidence.

The landlord submits that there was damage to the rental unit beyond the expected wear and tear from occupancy. Specifically, the landlord cites that the stove needed to be replaced due to a fire incident on October 22, 2021 and that the walls of the rental unit needed to be repainted. The landlord submits into documentary evidence receipts for the cost of the work performed and replacement appliances. The landlord also submitted correspondence from the municipal fire department which states that any records for incidents including the one stated to have occurred on October 22, 2020 will need to be specifically requested by a FOI request. The landlord submits a translated copy of a text message communication and states that the tenant initially agreed that the walls of the rental unit needed painting and had agreed to contribute \$500.00 towards painting on October 27, 2020.

The tenant disputes that the rental unit required repairs or cleaning beyond what would reasonably be expected from occupancy. The tenant submits that the stove was purchased by the landlord in March of 2020 and there was no need for replacement. The tenant further submits that there was no need for painting or repairs to the rental suite.

### 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.

As the tenant testified that they agree that utilities in the amount of \$734.07 are due and owing I find that this claim has been established on a balance of probabilities and issue a monetary award in the landlord's favour in this amount.

I am satisfied with the photographs submitted into evidence by the landlord, the condition inspection report prepared at the time of the move out inspection with the tenant, the invoice and the copies of translated communication between the parties that the walls of the rental unit required some work to be done. The landlord claims the amount of \$500.00, 20% of the total cost of painting and repairs charged by the third-party painting company. I find the amount to be reasonable and commensurate with the damage seen in the photographs. Accordingly, I issue a monetary award for this amount.

I am not satisfied on a balance of probabilities that the other amounts claimed by the landlord are attributable to the tenant or the tenancy. The invoice submitted for the purchase of a stove by the landlord is dated March 2020. I find the email communication with the fire department to be insufficient to demonstrate that there was any incident in October 2020 caused or contributed by the tenant such that the stove needed to be replaced. The photograph submitted by the landlord appears to show only minor cosmetic damage which would not require the entire appliance to be replaced.

Similarly, I find insufficient evidence that the deck needed repairs or that the repairs are caused by the tenant. The parties provided little documentary and testimonial evidence on this issue. I am not satisfied that the cost of repairs to the deck arise from the

actions or neglect of the tenant and consequently dismiss this portion of the landlord's application.

As the landlord was substantially successful in their claim I allow them to recover their filing fee from the tenant.

### Conclusion

I issue a monetary order in the landlord's favour in the amount of \$1,334.07. 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: October 25, 2021

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Residential Tenancy Branch