



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL-S, FFL

### Introduction

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

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- an order authorizing the landlord the recovery of the filing fee for this application from the tenant pursuant to section 72.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me;

however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue to be Decided

Is the landlord entitled to a monetary award for losses arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to the recovery of the filing fee?

### Background, Evidence

The landlord's testimony is as follows. JG testified that the tenancy began on April 15, 2020. The tenant was obligated to pay \$1200.00 per month in rent in advance and at the outset of the tenancy the tenant paid a \$700.00 security deposit which the landlord still holds. JG testified that the rent was due on the 30<sup>th</sup> of each month. JG testified that he and the tenants decided to mutually end the tenancy for February 28, 2021. JG testified that the tenants moved out on January 31, 2021 without giving any notice and without paying the rent. JG wants \$1200.00 in unpaid rent plus the \$100.00 filing fee for this application.

The tenant gave the following testimony. HG testified that he paid the rent in cash but wasn't given a receipt even though the landlord promised to email him one. HG testified that he doesn't owe any rent to the landlord. HG testified that he came to an agreement to move out on February 28, 2021.

### 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 provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. I address the landlords claim and my findings as follows.

HG testified that he paid the rent on January 31, 2021, but still moved out. I find this to be very unlikely and illogical that he would pay the rent for the upcoming month and then move out the day that he paid. The landlord has provided sufficient evidence to satisfy me, on a balance of probabilities, that the tenants did not pay the rent due on January 30, 2021 or gave proper notice that they would be ending the tenancy early. The landlord is entitled to \$1200.00 for unpaid rent plus the \$100.00 filing fee for this application.

### Conclusion

The landlord has established a claim for \$1300.00. I order that the landlord retain the \$700.00 security deposit in partial satisfaction of the claim, and I grant the landlord an order under section 67 for the balance due of \$600.00. This order may be filed in the Small Claims 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: November 23, 2021

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Residential Tenancy Branch