



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MND, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the “Act”), for a monetary order for unpaid rent and utilities, for an order to retain the security deposit and pet damage deposit in partial satisfaction of the claim and to recover the cost of the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing. All parties confirmed under affirmation that they were not recording the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Preliminary and Procedural Matter

On November 26, 2021, the landlord filed a new monetary worksheet claiming for items that are not in their application. However, the landlord did not file a request to amend their application in accordance with the Rules of Procedures 4.1. A claim cannot be made simply by adding evidence. Therefore, the only issues for me to determine are what is outline in the original application.

The landlord is entitled to file a new application for damages to the rental unit.

### Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent and utilities?  
Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

### Background and Evidence

The parties agreed that the tenancy began on September 15, 2016. Rent in the amount of \$1,100.00 was payable on the first of each month. The tenant paid a security deposit of \$600.00 and a pet damage deposit of \$200.00. The tenancy ended on June 15, 2021.

The landlord testified that the tenants were in rent arrears and unpaid utilities in the total amount of \$5,470.53. The landlord gave a detail calculation at the hearing.

The tenant does not dispute the rent owed or the utilities owed.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Rules about payment and non-payment of rent are defined in Part 2 of the Act.

#### **Rules about payment and non-payment of rent**

**26** (1) *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

...

I find the evidence of both parties supports the tenants breached the Act, when they failed to pay the rent or the utilities. I find the landlord is entitled to recover unpaid rent and utilities in the total amount of **\$5,470.53**.

I find that the landlord has established a total monetary claim of **\$5,570.53** comprised of the above described amount and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$600.00** and pet damage deposit of **\$200.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 of the Act for the balance due of **\$4,770.53**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

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: December 13, 2021

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Residential Tenancy Branch