



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Century 21 Energy Realty  
and [Tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNRL-S, MNDL-S, FFL

### Introduction

The Landlord filed an Application for Dispute Resolution (the “Application”) on July 29, 2021 seeking an order to recover the money for unpaid rent, for compensation for damage to the rental unit, and for return of the filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on February 11, 2022. In the conference call hearing I explained the process and provided the parties the opportunity to ask questions.

### Preliminary Matter

To proceed with this hearing, I must be satisfied that the Landlord made reasonable attempts to serve the Tenant with this Notice of Dispute Resolution Proceeding (the “Notice”). As per Rule 3.1 of the *Residential Tenancy Branch Rules of Procedure*, this must include “any other evidence submitted to the Residential Tenancy Branch directly.”

At the start of the hearing, the Landlord stated they delivered the Notice of this hearing and their evidence to the Tenant via registered mail. A record of this registered mail is in their evidence. The Tenant verified they had the Notice; however, they did not receive a copy of the original tenancy agreement or a move-in inspection report from 2020. They also received another person’s tenancy agreement and inspection information.

The Landlord in the hearing also stated they did not have the 2020 move-in inspection report. This was due to another Landlord agent in a different jurisdiction making the original Application and providing documents at that time.

The Tenant described the documents they received in detail. I advised that if one piece of evidence provided by the Landlord gave crucial detail that was of prime importance for this hearing, I would allow for that specific piece of disclosure to happen. On this basis, the hearing proceeded.

The Tenant provided material to the Residential Tenancy Branch 14 days before the scheduled hearing. They confirmed they did not provide their material to the Landlord, not having proper contact information. With no disclosure to the Landlord, I cannot consider the Tenant's evidence for the crucial reason of administrative fairness. That material forms no basis for the decision herein.

#### Issue(s) to be Decided

- Is the Landlord entitled to a monetary order for recovery of rent, and/or compensation for damage, pursuant to s. 67 of the *Act*?
- Is the Landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

#### Background and Evidence

Though the Landlord produced a copy of the tenancy agreement for the purpose of this hearing they did not disclose that to the Tenant in due course. The Tenant confirmed the basic information about the tenancy from their Application. The tenancy began on May 20, 2020 with a pro-rated amount of rent in that particular month. They paid \$1,050 monthly, and a security deposit of \$525.

The tenancy ended on July 14, 2021. Prior to this, the Tenant received a letter from their previous landlord announcing that they were ending as the landlord, with the final date being June 4. That previous landlord did not provide contact information for a new landlord, saying that the new landlord would be in contact in a couple of days. The Tenant presented that "nobody knew anything" and "[they] could not submit a notice [to end the tenancy] to anybody." In the hearing, the Landlord stated they could not speak to this period of the transition.

The Landlord here visited to the rental unit with the Tenant on July 6. In the hearing, the Tenant stated they met the Landlord for the first time when they visited on that date.

They informed the Landlord they were moving out “as soon as possible” and the Landlord agreed to this, according to the Tenant.

On July 14 the Landlord attended with the Tenant to review the condition of the rental unit. The Landlord provided a report generated from that visit, signed by the Tenant. This notes for the pantry room: “tenant says pantry door was not attached and hole was there previously.” A single image of the pantry door shows a large hole. The Tenant presented in the hearing that they purchased the door on their own for \$10 in the as-is condition and utilized it for the pantry door. They maintained there was no door when they moved in; they replaced that door on their own. They informed the Landlord of this at the July 14 meeting.

The Landlord provided a document titled Security Deposit Refund Form, undated. This shows their claim to the security deposit, and July unpaid rent (\$1,050) and pantry door replacement (\$246). The Landlord provided an estimate for that door replacement, dated July 15, 2021. The Landlord confirmed in the hearing that they replaced the door for the same cost after their Application.

### Analysis

The *Act* s. 13 sets out the basic requirements for any tenancy agreement. This includes the name, address for service and telephone number of the landlord or the landlord’s agent.

A tenant may end a tenancy by giving the landlord notice, effective for a date “not earlier than one month after the date the landlord receives the notice” and is the day before the rent-payable date. This is as per s. 45(1).

The *Act* s. 37(2) requires a Tenant, when vacating a rental unit to leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and give the Landlord all the keys and other means of access that are in the possession or control of the Tenant and that allow access to and within the residential property.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide enough evidence to establish the following four points:

1. That a damage or loss exists;

2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

The Landlord's claim consists of two separate pieces: July 2021 rent and replacement of the pantry door. To determine the Landlord's eligibility for compensation, I carefully examine the evidence and submissions for each item. This is to establish whether they have met the burden of proof.

I find the Landlord did *not* provide their contact information to the Tenant as the *Act* requires. This is one of the basic terms of the tenancy agreement. The Tenant is more credible in their account of this than the Landlord, based on their testimony in the hearing. I find this prevented them from paying rent as required by s. 26, and also prevented them from notifying the Landlord of the end of tenancy.

The Landlord did not account for the timeframe when they had not established their relationship with the Tenant. This was for the majority of the month of June. This includes the period from July 1<sup>st</sup>, when the Tenant had not paid rent. The Landlord did not establish contact immediately after July 1<sup>st</sup>, even if only to issue a notice to end the tenancy for unpaid rent or to query the Tenant on this.

As above, I find the Tenant had no means to pay their rent as required. They also had no means to properly notify the Landlord of the end of tenancy. The Tenant notified the Landlord of their move-out in the initial meeting on July 6. This would not normally suffice for the purposes of ending the tenancy; however, I find the Tenant was precluded from giving proper notice to the Landlord, and that lands with the Landlord in this case. I find there was no violation of the *Act* by the Tenant where it was not possible for them to contact the Landlord.

The Tenant did not provide proper notice to the Landlord in the proper amount of time; however, they occupied the rental unit until July 14. This is one-half of the calendar month that the Tenant maintained use and occupancy of the rental unit. For this, I find the security deposit in full – which is the equivalent of one-half monthly rent – is satisfactory recompense to the Landlord for this. This balances the Tenant's need to pay rent against the Landlord not providing contact information to the Tenant by which they could end the tenancy legally.

For the amount of damage to the door, the Landlord is not able to refer to the condition of the rental unit at the start of this tenancy. I accept the Tenant's own account that there was no door, and they paid \$10 for an alternative during the tenancy, undertaking this work on their own. This account is credible where there is no evidence from the Landlord on the condition of the unit at the start of the tenancy.

Given no other discrepancies on the move-out inspection report, I find there is no evidence of damage beyond reasonable wear and tear. The Tenant is not responsible for the pantry door replacement; I accept their account on a balance of probabilities that they paid for a rudimentary door for that spot at very low cost. As well, the Landlord noted the door was replaced, though not sourced from the firm that provided the estimate. The true cost to the Landlord is unknown.

The *Act* s. 72(2) gives an arbitrator the authority to apply the security deposit amount held by the landlord. The Landlord here has established a claim of \$525. Applying the security deposit amount in full, there is no other balance owing. I am authorizing the Landlord to keep the security deposit for the rent amount owing.

I find the Landlord was not successful for the majority of their Application; therefore, I dismiss their claim to recover the \$100 filing fee.

### Conclusion

I award the Landlord the full security deposit amount in satisfaction of their claim. This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: February 14, 2022

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Residential Tenancy Branch