



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAPLE LEAF HOMES LADNER LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNRL-S, FFL, MNSDS - DR

### Introduction

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

- a monetary order for unpaid rent and 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
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

This hearing also dealt with the tenant's cross-application pursuant to the *Act* for:

- authorization to obtain the return of double their security deposit pursuant to section 38.

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 unpaid rent?

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 recover the filing fee for this application from the tenant?

Is the tenant entitled to a monetary award equivalent to double the value of his security deposit as a result of the landlord's failure to comply with the provisions of section 38 of the *Act*?

### Background, Evidence

Both parties agree that the tenancy began on May 15, 2020, and that it ended on July 31, 2021. The tenant was obligated to pay \$1600.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$800.00 security deposit.

HS gave the following testimony. HS testified that he and the tenant had originally agreed by text message on June 10, 2021, that the tenancy would end on July 31, 2021 as per the tenants request. HS testified that on June 21, 2021, the tenant requested by text message that the tenancy extend for one more month until the end of August 2021. HS testified that he agreed by text message. HS testified that on August 3, 2021, he contacted the tenant as the rent for August had not been paid. HS testified that the tenant sent a text message advising that he already moved out. HS testified that the tenant didn't advise him of any change of plan. HS testified that he was unable to rent the unit for August 2021 and now seeks the loss of revenue of \$1600.00 plus the \$100.00 filing fee for this application.

The tenant testified that the unit had lots of small issues including the heat being stuck on. The tenant testified that he cant remember if he had changed his mind about moving from July 31 to August 31, 2021. The tenant testified that he “would really like” to get his deposit back.

### Analysis

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 each party’s claim and my findings around each are set out below.

The landlord and tenant communicated primarily and extensively through text messages. The landlord provided the text message conversation to corroborate his testimony. The messages clearly show that the tenant requested a one-month extension to the agreed end of tenancy of July 31, 2021, and to have it end on August 31, 2021. The tenant testified that he had sent the landlord an email of his new plans but did not provide that letter for this hearing. Section 45 of the Act addresses the issue before me as follows.

### **Tenant's notice**

- 45** (1)A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that
- (a)is not earlier than one month after the date the landlord receives the notice, and
  - (b)is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

I find that the tenant did not provide proper notice as required and is in contravention of the above section. I find that the landlord is entitled to the loss of revenue of \$1600.00 for the month of August 2021 due to the tenant not giving proper and sufficient notice.

The landlord is also entitled to the recovery of the \$100.00 filing fee.

As per the offsetting provision under section 72, I hereby grant the landlord the security deposit in partial satisfaction of the claim.

The tenant's application is dismissed in its entirety without leave to reapply.

### Conclusion

The landlord has established a claim for \$1700.00. I order that the landlord retain the \$800.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$900.00. 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: March 07, 2022

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Residential Tenancy Branch