



# Dispute Resolution Services

Page: 1

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**      **MNDCL-S, MNRL-S, FFL**

### **Introduction**

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

- a Monetary Order for unpaid rent and damages pursuant to section 67;
- authorization to retain the security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, which lasted approximately 15 minutes. The corporate landlord was represented by its agent (the "landlord") who was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

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

The landlord testified that the notice of hearing and evidence was sent to the tenant by registered mail on September 8, 2021 to the forwarding address provided by the tenant. The landlord provided a Canada Post tracking number as evidence of service. I find that the tenant is deemed served with the landlord's application for dispute resolution and evidence package in accordance with sections 88, 89 and 90 of the Act on September 13, 2021, five days after mailing.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Is the landlord entitled to recover the filing fee for this application 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 August 2020. The monthly rent is \$1,500.00 payable on the first of each month. A security deposit of \$750.00 was collected and is still held by the landlord. A condition inspection report was completed in accordance with the Act and regulations at the start of the tenancy noting no issues.

The tenant vacated the rental unit sometime in July 2021 without providing notice to the landlord. The tenant failed to pay rent as required under the tenancy agreement on July 1, 2021. The landlord attempted to contact the tenant for the purposes of scheduling a move-out inspection but the tenant failed to attend on any date to complete a move out inspection report. The tenant eventually provided a forwarding address to the landlord on or about August 5, 2021 and the landlord filed their present application for dispute resolution.

The landlord submits that the rental unit required some cleaning, garbage disposal and work due to its state. The landlord submitted a receipt from a third party company for the cost of work done to restore the rental unit to its pre-tenancy condition.

Analysis

Section 38 of the *Act* requires the landlord to either return the tenant's security deposit in full or file for dispute resolution for authorization to retain the deposit 15 days after the later of the end of a tenancy or upon receipt of the tenant's forwarding address in writing.

I accept the undisputed evidence of the landlord that the tenant provided a forwarding address on or about August 5, 2021. The landlord filed their application for dispute

resolution seeking authorization to retain the security deposit on August 18, 2021, within the 15 days provided under the *Act*.

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. 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 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.

I find that there was an enforceable tenancy agreement between the parties wherein the tenant was required to pay rent in the amount of \$1,500.00 on the first of each month. I accept the landlord's undisputed evidence that the tenant failed to pay rent as required on July 1, 2021 and the arrear for this tenancy is \$1,500.00.

I accept the undisputed evidence of the landlord that the tenant caused damage to the rental unit that required repairs and cleaning. I accept the landlord's evidence by way of sworn testimony and documentary materials, that the cost of the repairs and cleaning is \$808.50 .

Accordingly, I issue a monetary award in the landlord's favour of \$2,308.50.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenants' security deposit of \$750.00 in partial satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$1,658.50. 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: March 7, 2022

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Residential Tenancy Branch