



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, 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 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.

The hearing was conducted via teleconference and was attended by the landlord. No one was in attendance on behalf of the tenant. The landlord submitted documentary evidence that the tenant was served notice of this application and this hearing by registered mail on September 13, 2021. Canada Post tracking information was submitted in the landlord's evidence. Based on the submissions of the landlord, I find the tenant was deemed served five days later on September 18, 2021 in accordance to sections 89 and 90 of the *Act*. Therefore, I continued in the absence of the tenant. It is also worth noting that the tenant submitted some documentation for this hearing but chose not to participate.

### Preliminary issue – Security Deposit

At the outset of the hearing the landlord advised that they had inadvertently checked off the box to retain the deposit, however the landlord returned the deposit to the tenant in early 2021, accordingly; it is dismissed from the landlord's application without leave to reapply.

Issue to be Decided

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

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

Background, Evidence

The landlord's undisputed testimony is as follows. FY testified that the tenancy began on August 10, 2020 and ended on March 29, 2021. The tenant was obligated to pay \$2900.00 per month in rent in advance on the 10<sup>th</sup> of each month plus 60% of the utilities. FY testified that the tenant left the unit dirty and damaged at move out. The landlord testified that the tenant damaged an end table and painting. FY testified that the tenant damaged a shoe cabinet. FY testified that the suite and carpets needed extensive cleaning. FY testified that the tenant did not return all the keys requiring new locks. FY testified that the tenant did not pay their share of the wifi, electricity, water and gas for the final billing cycle. FY testified that the tenant shorted the landlord the final months rent by only paying a portion of it leaving a balance of \$1160.00 of unpaid rent.

The landlord is applying for the following:

1.	Repair Painting and End Table	\$850.50
2.	Shoe cabinet replacement (estimate)	301.36
3.	House Cleaning	450.00
4.	Carpet Cleaning	180.00
5.	Lock Replacement and Labour to install	577.62
6.	Tenants portion of wifi, electricity, water and gas	481.90
7.	12 days of unpaid rent March 29-April 9, 2021	1160.00
8.	Filing fee	100.00
9.		
10.		
	<b>Total</b>	<b>\$4101.38</b>

### 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.

The landlord provided extensive documentation, written condition inspection reports for move in and move out, undisputed testimony, receipts and photos to support all of their application save and except for the shoe cabinet which they did not replace and have not incurred any “out of pocket costs”. The landlord has provided sufficient evidence to support the remainder of their claim and is entitled to all the costs as claimed in the above table except the shoe cabinet for a total amount of \$3800.02.

### Conclusion

The landlord has established a claim for \$3800.02. I grant the landlord an order under section 67 for the balance due of \$3800.02. 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 10, 2022

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Residential Tenancy Branch