



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR MNDC MND

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on April 28, 2022. The Landlord applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord attended the hearing. The Tenants did not attend the hearing. The Landlord stated that he sent the Tenants each a copy of the Notice of Hearing and evidence by registered mail on January 13, 2022. Proof of mailing was provided into evidence. Pursuant to section 89 and 90 of the Act, I find the Tenants are deemed to have received these documents on January 18, 2022, the fifth day after their mailing.

The Landlord submitted and served an amendment to this application. The Landlord served the Tenants, personally, with this amendment on March 16, 2022. I find the Tenants were served with the amendment this same day. The Landlord stated that the Tenants moved out on March 22, 2022.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Is the Landlord entitled to a monetary order for rent or for damage or loss under the Act?

- Is the Landlord entitled to retain all or a portion of the Tenants' security deposit in partial satisfaction of the monetary order requested?

### Background and Evidence

The Landlord stated that monthly rent was set at \$2,200.00 and was due on the first of the month. The Landlord stated that he currently holds a security deposit in the amount of \$1,100.00.

The Landlord initially filed this application to recover expenses related to a plumbing incident. However, he amended his application to include the following items:

\$792.75 – Emergency Plumbing repairs

The Landlord stated that on December 11, 2021, at around 7pm, the Tenants called him to report a blocked sewer line. The Landlord explained that the Tenants plugged the toilet in the lower floor bathroom, and it was totally blocked, and overflowing. The Landlord stated that he immediately called the plumber, who went over to investigate the block. The Landlord stated that the plumber determined that the sewer line connected to the lower floor toilet was plugged with plastic wrap. The Landlord stated that he had to pay the above noted amount to repair the blocked sewer line. A copy of the invoice was provided into evidence.

\$600.00 – Leftover Affected Rent Repayment Amounts

The Landlord stated that the Tenants had difficulty paying their rent during the COVID emergency period, and that he set up a repayment plan to help the Tenants repay the amount they owed, \$3,800.00. The Landlord stated that the Tenants repaid \$3,200.00 but still owe \$600.00.

\$450.00 – Water and garbage utility bills

The Landlord stated that the Tenants had the garbage and water utility bill in their names, but they were having issues paying their bills over the last year. The Landlord did not provide a copy of the tenancy agreement, and did not provide any copies of utility bills. The Landlord stated that he is concerned that the Tenants will not pay their bills, and that the amounts will get transferred to his property tax liabilities for the year. The Landlord did not provide evidence to show that the above noted amount was transferred from the Tenant's outstanding utility bills, to his account.

### Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

That the other party violated the *Act*, regulations, or tenancy agreement;  
That the violation caused the party making the application to incur damages or loss as a result of the violation;  
The value of the loss; and,  
That the party making the application did whatever was reasonable to minimize the damage or loss.

Regarding the first item, I find the Tenants are liable for this item, in full, as it was an expense that was incurred as a result of inappropriate items being put into the toilet. I do not find this is reasonable wear and tear. Rather it is misuse and neglect. As a result, I find the Landlord is entitled to this amount, in full, \$792.75.

Next, I turn to item #2. I note the Landlord is seeking to recover unpaid “affected rent” (rent that became due between March 18, 2020, until August 17, 2020.) I accept the undisputed testimony and evidence that the Tenants owed \$3,800.00 in unpaid “affected rent”, and that they only repaid \$3,200.00. I find this leaves a balance owing of \$600.00 which the Tenants are liable for. I award this amount, in full.

Regarding the 3<sup>rd</sup> item above, I note that the Landlord must demonstrate all 4 parts of the 4 part test above. I find the Landlord has failed to sufficiently demonstrate the value of the loss, as there are no utility bills, or documentary confirmation as to what was owed, and for what periods. Further, the Landlord stated that these bills were in the Tenants’ name. I find the Landlord has provided insufficient evidence to show any outstanding bills were transferred to the Landlord at this time. In any event, I find the Landlord has not met the burden of proof on this item. I dismiss it, in full, without leave.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was substantially successful with his application, I order the Tenants to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution. Also, I authorize the Landlord to retain the security and pet deposit to offset the other money owed.

In summary, I find the Landlord is entitled to the following monetary order:

<b>Item</b>	<b>Amount</b>
Plumbing expense	\$792.75
Rent	\$600.00
PLUS: Filing Fee	\$100.00
Subtotal:	\$1,492.75
LESS: Security and Pet Deposit	\$1,100.00
<b>Total Amount</b>	<b>\$392.75</b>

### Conclusion

The Landlord is granted a monetary order in the amount of **\$392.75**, as specified above. This order must be served on the Tenants. If the Tenants fail to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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: April 28, 2022

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Residential Tenancy Branch