



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNRL-S, MNDL-S, MNDCL-S, FFL

### Introduction

The Landlords (hereinafter the “Landlord”) filed an application for dispute resolution (the “Application”) on December 6, 2021 seeking compensation for rent amounts owing, monetary loss/other money owed, and damage to the rental unit. They also seek reimbursement of the Application filing fee.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on July 11, 2022. The Landlord attended the conference call hearing; the Tenant did not attend. I explained the process and offered the Landlord the opportunity to ask questions.

### Preliminary Matter – service of the Notice to the Tenant

In the hearing, the Landlord reviewed their service to the Tenant of the Notice and evidence:

- By registered mail to the rental unit when the Tenant still lived there, on December 8, 2021 – this was the Notice of Dispute Resolution Proceeding
- By email to an email address previously provided by the Tenant, and authorized by the Residential Tenancy Branch in a decision dated February 22, 2022 – this was further evidence the Landlord relied on for their claim. The Landlord sent proof of the emails receipt on March 28, and read by the Tenant on that same date – this was via an application named “Mailtrack” specifically designed for notifying a user when their email is received/read.

From what the Landlord presents here on notifying the Tenant of this hearing, and their provision of evidence, I am satisfied they served the Tenant notice of this hearing in a method prescribed by s. 89(1)(c) and (e) of the *Act*.

### Issues to be Decided

Is the Landlord entitled to a monetary order for unpaid rent, for damages to the rental unit, and/or other money owed, pursuant to s. 67 of the *Act*?

Is the Landlord entitled to reimbursement of the Application filing fee, pursuant to s. 72 of the *Act*?

### Background and Evidence

The Landlord provided a copy of the tenancy agreement that they signed on May 30, 2019, and the Tenant on May 28, 2019. The tenancy began on July 1, 2019 for the fixed term to end on June 30, 2020. The Landlord confirmed the agreement continued on a month-to-month basis after that initial term. The rent amount was \$1,685 payable on the first of each month. Late payments were subject to an additional amount of \$25.

A separate clause in the agreement provides that the Tenant was responsible for payment of “electricity, internet, cable, telephone, heating/cooling, and alarm/security system.”

Addendum A shows the Tenant paid a security deposit amount of \$842.50, and a pet damage deposit amount of \$842.50.

The Tenant emailed to the Landlord on December 1, 2021 to state that their final date in the rental unit would be December 31, 2021. The Landlord responded to say that they Tenant was obligated to give one full month notice, and serve a valid notice to end tenancy, *i.e.*, not an email service. The Tenant responded to say they still wish to end the tenancy on December 31, and that email was sufficient for that purpose.

On December 2, 2021 the Landlord informed the Tenant that rent was overdue, and that the \$25 amount would be added to the amount owing. The Landlord gave reminders to the Tenant on December 5 (by way of a written letter attached to the rental unit door). Meanwhile the Landlord posted ads for the upcoming vacant rental unit and requested the Tenant’s cooperation with showings to prospective tenants.

On December 8, 2021 the Landlord served the notice of this dispute resolution proceeding to the Tenant. The Landlord informed the Tenant on December 22 that a move-out inspection jointly completed with the Landlord was mandatory, and by registered letter they set out three times for the move-out inspection.

The Landlord visited the unit to do a showing on December 29, 2021 and “[were] surprised that the unit [was] vacant.” The Landlord described in the hearing that the Tenant did not return the key to the rental unit. Via the concierge, they learned the Tenant had vacated.

The Landlord conducts an inspection on their own on January 1, 2022 and completes the report setting out their discovery that the rental unit was not clean and there were damages. On January 2 the Landlord asked the Tenant for a forwarding address to which they had no response. They sent a copy of the final Condition Inspection Report to the Tenant via email.

The Landlord provided a copy of the final Condition Inspection Report in their evidence. This lists damage as: “cleaning, carpet cleaning, broken door stop, x2 burned light bulbs, scratched cabinets.” This document was not reviewed or signed by the Tenant.

The Landlord also included pictures in their evidence as proof of damage. These show the need for cleaning in various spots in the kitchen and the bathroom, as well as dirty carpeting and floors. There is also a large scratch in a space the Landlord identified as a cabinet.

The Landlord provided a comprehensive list of their claimed amounts in a “Monetary Order Worksheet” dated February 13, 2022, disclosed as part of their evidence to the Tenant. This lists the following:

#	Items	\$ claim
1	Cleaning	374.64
2	carpet cleaning	223.74
3	Light bulbs	20.66
4	Door stop --	10.07
5	Unpaid December rent	1,685.00
6	Unpaid January rent	434.84
7	Late rent fee	25.00
8	Application filing fee	100.00
9	Registered mail	27.79
10	Unpaid utility bills	69.10
Total		<b>3,093.05</b>

Further evidence and testimony from the Landlord is:

- A receipt for the cleaning service is in the Landlord's evidence. The Landlord provided they received a 20% discount for this, giving the amount set out on their worksheet.
- A separate firm completed carpet cleaning in the rental unit on December 31, 2021. That receipt is in the Landlord's evidence.
- The Landlord provided a single receipt for their purchase of lightbulbs and a door stop.
- The Landlord signed a tenancy agreement with new tenants for January 9, 2022. They request the Tenant pays a per diem rent for January 1 to January 8, 2022, for \$434.84. This was because the Tenant did not give a full month's notice of their end of this tenancy, and this prevented the Landlord from finding a new Tenant where there was non-disclosure from the Tenant on their intentions. The Landlord submitted they mitigated the amount of loss because they started advertising for a Tenant in December. The Landlord provided their ad that indicates an available date of January 1, 2022. The Landlord did not learn the Tenant had moved out from the rental unit until December 29, 2021.
- The Landlord provided receipts for registered mail in the amounts of \$16.43 and \$11.36.
- The Landlord provided a copy of a January 11, 2022 utility bill in their name for the rental unit address. This is the billing period from January 1 to January 8, with a carryover balance from the prior utility bill of \$48.40. The Landlord notified the Tenant of the final amount of \$69.10 via email on February 14, 2022.

### Analysis

I accept the Landlord's submission that they had an ongoing agreement with the Tenant for a month-to-month tenancy agreement. The *Act* s. 45(1) governs in this situation meaning the Tenant had to provide a notice to end the tenancy effective on a date that was not earlier than one month after the date the Landlord receives the notice, and is the day before the first day of the month when rent was due.

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 s. 7 and s. 67 of the *Act*.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient 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.

I find the Tenant left without adequate notice within the month of December. Moreover, they did not pay the full amount of rent for that month. I award the full rent amount -- \$1,685 -- to the Landlord, plus the \$25 late fee as set out in the tenancy agreement. I grant the amount of \$434.84 for the following days they were left without a new tenant, resulting from the Tenant's breach of the *Act*. I find the Landlord minimized the damage to them by having a new tenant in place as soon as possible.

The Landlord presented that communication from the Tenant on all matters was lacking and the end-of-tenancy date was not known by the Landlord, despite their numerous requests for clarity. I find the Landlord is eligible for the 8 days total rent in January 2022 when they were without a Tenant; this represented a loss to them in that they were not able to have a new tenant in place from January 1 forward -- this is entirely due to the lack of messaging and incorrect end-of-tenancy date provided by the Tenant.

I find the Landlord provided ample evidence to show the need for cleaning within the rental unit after the end of the tenancy. This was as noted on the Condition Inspection Report and provided for in the photos. This includes the amount they paid for carpet cleaning.

The Landlord did not provide sufficient evidence showing the need for lightbulbs or a door stopper besides noting them on the Condition Inspection Report. I dismiss these pieces of the Landlord's claim.

The *Act* does not provide for recovery of other costs associated with serving hearing documents in that the mode of service does not have its basis in the tenancy agreement; therefore, the cost of registered mail is not recoverable.

I find the Landlord has provided sufficient evidence to show the unpaid utilities stem from this tenancy. The Tenant on this piece violated the tenancy agreement and the Landlord has proven the value of that loss to them. I order the amount claimed for compensation to the Landlord.

Because the Landlord was largely successful in this Application, I grant reimbursement of the \$100 Application filing fee, added to the balance set out immediately above.

I find the Landlord is entitled to the amount of \$2,912.32, resulting from the Tenant violating the terms of the tenancy agreement and the principles governing this tenancy as set out in the *Act*.

The *Act* s. 72(2) gives an arbitrator the authority to make a deduction from the security deposit held by a landlord. The Landlord here has established a claim of \$2,912.32. After setting off the security deposit and pet damage deposit amounts that total \$1,685, this leaves a balance remaining of \$1,227.32. I am authorizing the Landlord to keep the deposit amounts as compensation and award the balance with a Monetary Order.

### Conclusion

Pursuant to s. 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$1,227.32.

The Landlord is provided with this Order in the above terms, and they must serve it to the Tenant as soon as possible. Should the Tenant fail to comply with this Order, the Landlord may file this Order in the Small Claims Division of the Provincial Court where it will 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 s. 9.1(1) of the *Act*.

Dated: July 11, 2022

---

Residential Tenancy Branch