



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

Landlord: MNRL-S, MNDL-S, FFL  
Tenants: MNSDB-DR

### **Introduction**

The Landlord filed an Application for Dispute Resolution (the “Application”) on March 15, 2022 seeking compensation for unpaid rent, damage caused by the Tenant, and the filing fee.

The Tenant filed an Application for Dispute Resolution on March 23, 2022, via the Direct Request (*i.e.*, non-hearing) method. Because the Landlord’s Application was already in place, the Residential Tenancy Branch crossed this with the Landlord’s Application for the same hearing. The Tenant seeks the return of the security deposit and pet damage deposit that they allege the Landlord is holding without cause.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on November 18, 2022. The Landlord attended the hearing; the Tenant did not attend. I explained the process to the Landlord. The Landlord had the opportunity to present oral testimony and present their prepared evidence in the hearing.

### **Preliminary Matter – notification of the hearing and evidence**

The Landlord stated that they delivered notice of this dispute, as well as their prepared evidence, to the tenant via Canada Post registered mail on March 24, 2022. They provided images of the mailing label showing the tracking number, and the post office stamp showing the date. This was one piece of registered mail for each Tenant. From this evidence I am satisfied that the Landlord completed service as required by the *Act* and the *Residential Tenancy Branch Rules of Procedure*.

Neither of the Tenants listed on the agreement attended the hearing. The Landlord stated they were not aware of the Tenant's own Application for the return of the deposits. With no evidence the Tenant sent notice to the Landlord, and no Tenant in attendance at the hearing, I dismiss the Tenant's Application for this reason, without leave to reapply. I find the Tenant did not comply with s. 59(3), with no proof the Tenant gave a copy of their Application as instructed by the Residential Tenancy Branch.

#### Issue(s) to be Decided

- Is the Landlord entitled to monetary compensation for unpaid rent, and/or damage to the rental unit, pursuant to s. 67 of the *Act*?
- Is the Landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

#### Background and Evidence

The Landlord provided a copy of the tenancy agreement in their evidence. This shows the tenancy started on January 1m 2017 and was initially set for a fixed term that would end on December 31, 2017. The amount of rent was set at \$2,200 per month, payable on the first of each month. The copy in the evidence shows the parties signed the agreement on November 16, 2016. The Tenant paid a security deposit of \$1,100 and a pet damage deposit of \$1,100.

In the hearing, the Landlord presented that the rent increased over the course of the tenancy, to \$2,288, and then \$2,450 as they indicated on the Application.

In the hearing, the Landlord provided that the tenancy ended on February 28, 2022. The Tenant moved out on this date, and the parties met to inspect the condition of the rental unit. This is documented in the Condition Inspection Report that shows a move-in inspection on January 3, 2017, and the final move-out inspection on February 28, 2022.

On the Condition Inspection Report, the Landlord wrote out damage to the unit for which the Tenant is responsible:

Not clean; carpets heavily stained; hole city in basement & hole in door; kitchen light covers [broken]; flooring [dirty/damaged] all over; 3 blinds [damaged]; fireplace tile [broken]; doors removed; pool table & items left

The Landlord wrote the name of the Tenant who attended – the cross-applicant for this hearing. They checked that they “agree that this report fairly represents the condition of the rental unit” and signed the report. The Tenant did not provide a forwarding address to the Landlord on that document. In the hearing, the Landlord stated the Tenant provided their forwarding address to the Landlord via email on March 6, 2022.

i. Landlord’s claim for rent – December 2021 and February 2022

The Landlord explained that the Tenant did not pay the required amount of rent, at \$2,405 for December 2021 and February 2022. In a separate application to the Residential Tenancy Branch, another arbitrator granted the Landlord these two full months of rent in the form of a monetary order for the amount of \$4,810, on August 22, 2022. The Landlord stated in the hearing that, as of the date of this present hearing, the Tenant had not paid, despite the Landlord having served that Monetary Order to them as required.

ii. Landlord’s claim for damages to the rental unit

The Landlord, with reference to the Condition Inspection Report, described the damages in the rental unit. These are set out on an estimate the Landlord provided, dated March 14, 2022, from a firm they retained to handle the job of removing goods left behind by the Tenant after the end of the tenancy. This firm also provided repair work for damage for lights, closet doors, blinds, and fireplace tile. This estimate was for \$1,118.60.

The Landlord in the hearing stated there was subsequent work completed, involving replacements of carpets and flooring throughout, and painting throughout. The Landlord paid a full invoice for this separately; however, this does not appear in the Landlord’s evidence.

iii. cleaning estimate

The Landlord also provide a quotation from a cleaning firm, dated March 14, 2022. This was for the amount of \$840. They stated this “would have included carpet cleaning.”

The Landlord referred to 25b photos they provided as evidence for this hearing. This quotation from the firm was based on that firm’s viewing of the pictures.

iv. utilities owing

The Landlord provided image of “account final notice” from the gas service provider, for the amount of \$832.87. This notice is undated, but does show the Tenant’s name, and the address for the rental unit.

In the hearing, the Landlord also provided that the Tenant did not pay an invoice for electricity. The invoice they referred to was dated April 29, 2022 in the amount of \$550.46.

Analysis

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. Landlord’s claim for rent – December 2021 and February 2022

The Arbitrator in a previous dispute resolution process granted a monetary order to the Landlord. That decision referred the Landlord to the process of how to enforce a Monetary Order. I conclude the Landlord did not enforce the previous monetary order awarded in that hearing, as they are required to do. I find the Landlord has previously claimed this amount, and the previous Arbitrator awarded that amount as legally owing from the Tenant to the Landlord. The Landlord is not entitled to another award for that same amount. They must undertake to enforce that monetary order on their own. I dismiss this piece of the Landlord’s Application for this reason.

ii. Landlord’s claim for damages to the rental unit

Concerning the condition of the unit at the end of tenancy, s. 37 specifies that a tenant must “leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.”

I conclude, with photo evidence, that the Tenant damaged various areas throughout the rental unit. They signed their agreement to this at the time of the final inspection on February 28, 2022. Though the Landlord provided that they later paid for completion of this work, I grant the

amount of the estimate for damages to the rental unit to them as recompense for this completed work. This amount is \$1,118.60.

iii. cleaning estimate

From the photos provided, I find there was a need for more in-depth cleaning at the end of the tenancy. The Tenant agreed to this by signing the Condition Inspection Report as such on February 28, 2022. I grant the Landlord the amount of \$840 as recompense for cleaning required at the end of the tenancy, where the Tenant breached the *Act* s. 37.

iv. utilities owing

The Landlord provided an undated invoice from the gas service provider. I find this is sufficient evidence to show the Tenant left an amount unpaid after the end of the tenancy. I find it more likely than not this amount is correct as shown in the invoice. I grant the amount of \$832.87 to the Landlord for this.

The Landlord provided no invoice in the evidence from the electricity service provider. Without the ability to verify the amount left unpaid as claimed by the Landlord here, I dismiss this individual piece of the Landlord's Application. There is no evidence of the amount paid.

In sum, I find the Landlord has a valid monetary claim for damage to the rental unit, cleaning expenses, and utilities owing. By s. 72(2), I have the authority to make a deduction from the deposit amounts held by the Landlord.

The Landlord has established a claim of \$2,790.97. After setting off the security deposit (\$1,100) and pet damage deposit (\$1,100), there is a balance owing of \$590.97. I am authorizing the Landlord to keep the security deposit and pet damage deposit and award the balance of \$590.97 as compensation for damage to the rental unit, cleaning, and utilities.

Because the Landlord was moderately successful in their claim as set out above, I award the \$100 Application filing fee. The Tenant was not successful in their claim; therefore, their Application for the filing fee is dismissed without leave to reapply.

Conclusion

I order that the Tenant pay to the Landlord the amount of \$690.97. I grant the Landlord a monetary order for this amount. The Landlord may file this monetary order at the Provincial Court (Small Claims) 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: November 18, 2022

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Residential Tenancy Branch