



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

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

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for:

- a monetary order for unpaid rent of \$9,001.32;
- a monetary order of \$1,110.00 for damages for the Landlord; and
- a monetary order of \$10,739.22 for damage or compensation under the Act, retaining the security deposit to apply to these claims.

However, the Landlord's third claim is a combination of the first two claims; therefore, it was not reviewed in this proceeding.

The Landlord appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Tenants. The teleconference phone line remained open for over 30 minutes and was monitored throughout this time. The only person to call into the hearing was the Landlord, who indicated that he was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Landlord.

I explained the hearing process to the Landlord and gave him an opportunity to ask questions about it. During the hearing, the Landlord was given the opportunity to provide his evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Tenants did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act and Rule 3.1 state that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified that he served the Tenants with the Notice of Hearing documents and his evidence by email, sent on March 23, 2022. The Landlord said that email was

an agreed means of communication between the Parties, and he submitted a copy of this email he sent with the attached documents. Based on the evidence before me on this matter, I find that the Tenants were deemed served with the Notice of Hearing in accordance with the Act. I, therefore, admitted the Application and evidentiary documents, and I continued to hear from the Landlord in the absence of the Tenants.

### Preliminary and Procedural Matters

The Landlord provided the Parties' email addresses in the Application, and he confirmed these addresses in the hearing. He also confirmed his understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Landlord that pursuant to Rule 7.4, I would only consider his written or documentary evidence to which he pointed or directed me in the hearing. I also advised the Landlord that he is not allowed to record the hearing and that anyone who was recording it was required to stop immediately. The Landlord affirmed that he was not recording the hearing.

### Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order, and if so, in what amount?

### Background and Evidence

The Landlord confirmed the details of the tenancy from the tenancy agreement, saying that that the periodic tenancy began on November 15, 2020, with a monthly rent of \$1,700.00, due on the first day of each month. The Landlord said that the Tenants paid him an \$800.00 security deposit and no pet damage deposit. The Landlord said he still holds the security deposit and has applied it to these claims.

The Landlord said that the Tenants moved out on June 4, 2021, but that they did not provide him with their forwarding address. The Landlord said he was able to get a new tenant as of July 15, 2021, and therefore, he is only charging the Tenant for rent up to that point. The Landlord confirmed that he did not conduct an inspection of the condition of the rental unit with the Tenant at the start of the tenancy. He said the residential property was new ten years ago, and that it is a two-bedroom, one bathroom rental unit.

## #1 UNPAID RENT AND UTILITIES OWING → \$9,629.22

The Landlord said he is claiming compensation from the Tenants for unpaid rent and utilities. The Landlord said the Tenants owe him \$8,327.50 in unpaid rent and \$1,301.72 in unpaid utilities.

The Landlord submitted a copy of the tenancy agreement, which included an addendum setting out that the Tenant agreed to pay half of the utility costs (oil heat and electricity). The Tenant initialed this page in what I find to be acceptance of this term of the tenancy agreement.

On March 15, 2021, the Landlord applied to the RTB for a direct order for compensation of unpaid rent and utilities, and for an order of possession of the rental unit. The Landlord was successful in being awarded an order of possession and a monetary order of \$1,077.55 for unpaid rent for January and February 2021. As such, he agreed that I should deduct this amount from his monetary claims.

The adjudicator making these direct orders had dismissed the Landlord's application for unpaid utilities, because she found that not enough time had passed since the Tenants were given a written demand for the utilities, before the Landlord applied for dispute resolution. However, the Landlord applied for dispute resolution again on March 15, 2022, which I find has given the Tenants sufficient time to consider and pay their share of the utility bills pursuant to the Act.

The Landlord submitted a copy of an email he sent to the Tenant dated April 24, 2021, in which he said:

[Tenant]

I am sending Seven Pages of Hydro Bill for Feb-10-2021 two pages, and April-13-2021 four pages total \$1162.90. Half you [share] will be **\$581.46** Copy of Bill attach with this email, thank you.

Sincerely

[Landlord, address, phone number, email] .

[emphasis added]

The Landlord had also sent an email to the Tenant with the cost of heating oil for March-2-2021, which totaled \$410.14, half of which was her share: **\$205.07**.

The Landlord had sent an email dated February 14, 2021, to the Tenant setting out her share of the heating oil for Feb-12-2021, which was **\$197.16**.

The Landlord also submitted copies of these bills, which corresponded to the claims in his emails. The highlighted amounts of utilities noted in these emails add up to **\$983.69**. This is the extent of the emails sent to the Tenants claiming for their share of the utilities owing.

The Landlord submitted a ledger of the Tenants' payment record, which included the months addressed by the direct request application.

The following are the contents of this monetary order worksheet (deleting the portion already awarded).

<b>Date Rent Due</b>	<b>Amount Owing</b>	<b>Amount Received</b>	<b>Payment Date</b>	<b>Amount Owing</b>
March 15/21	\$1,700.00	\$400.00	Mar 25/21	\$1,300.00
April 15/21	\$1,700.00	\$0.00	n/a	\$3,000.00
May 15/21	\$1,700.00	\$0.00	n/a	\$4,700.00
June 15/21	\$1,700.00	\$0.00	n/a	\$6,400.00
July 15/21	\$850.00	\$0.00	n/a	\$7,250.00
<b>TOTALS</b>	\$7,650.00 -	\$400.00	\$7,250.00	
			<b>Rent Owing</b>	<b>\$7,250.00</b>

## **#2 COMP. FOR DAMAGES TO UNIT OR PROPERTY → \$1,110.00**

In another monetary order worksheet, the Landlord indicated that this claim is for suite cleaning, carpet cleaning and carpet repair costs. However, in another document, he calculated this claim as being from:

\$ 360.00 - Cleaning  
 \$ 300.00 – Carpet cleaning  
 \$ 250.00 – Repair carpet, kitchen top repair, floor, and doors repair  
\$ 200.00 – Painting and repairing suite walls  
\$1,110.00

The Landlord submitted an invoice from a cleaning company for \$360.00, which indicated that this was calculated by multiplying 12 hours at \$30.00 an hour.

The Landlord submitted four receipts from a building supplies company, but he did not provide any testimony or written comments clarifying these receipts. These receipts added up to \$143.78.

The Landlord submitted three receipts for a Parts vendor, but again, the Landlord had not identified to what these receipts apply in his claim.

The Landlord also submitted receipts applying to carpeting that amounted to \$50.68. The Landlord also submitted a packing slip for a bath shop; however, there were no amounts billed on this document. Further, the Landlord did not indicate the purpose of submitting these documents in support of his claim.

In the hearing, the Landlord said:

The carpet I bought – the invoice is there. And I bought almost \$200.00 of things, and I bought paint and so many things – a door, I repaired a door and all of those things. I bought two carpets, and the dog made it smell, but I did all of them by myself.

I never had a tenant as she was. My wife came to help me out – the house smelled so bad. It was bizarre, and I want to address her not respecting people – it was so stressful for neighbours. It was so stressful. But I didn't charge her all the damage that I could have. I tried to minimize it – the \$1,000.00 is nothing to what she did to us.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

#### **#1 UNPAID RENT AND UTILITIES OWING → \$9,629.22**

Section 26 of the Act states: "A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a

portion of the rent.” There is no evidence before me that the Tenant had a right to deduct any portion of the rent from the monthly rent due to the Landlord.

Section 46 (6) of the Act sets out that a landlord may consider unpaid utilities as unpaid rent, if the landlord has served the tenant with a written demand for payment of them, and if the utility charges are unpaid for more than 30 days after receipt of the written demand.

I find that the Landlord has provided sufficient evidence to meet his burden of proof on a balance of probabilities for his unpaid rent claim of \$7,250.00. I, therefore **award the Landlord with \$7,250.00** from the Tenants for unpaid rent, pursuant to sections 26 and 67 of the Act.

I find that the Landlord has provided sufficient evidence that he alerted the Tenants about the utilities owing in February through April 2021, which amounts come to \$983.69. I, therefore, **award the Landlord with \$983.69** from the Tenants, pursuant to sections 46 (6) and 67 of the Act.

## **#2 COMP. FOR DAMAGES TO UNIT OR PROPERTY → \$1,110.00**

I find that the Landlord provided sufficient evidence to support his claim for \$360.00 in cleaning; however, he did not direct me to or explain other invoices for the remaining damage claims; therefore, I award the Landlord with **\$360.00** for this set of claims, pursuant to section 67 of the Act.

### Summary and Set Off

I find that this claim meets the criteria under section 72 (2) (b) of the Act to be offset against the Tenant’s security deposit of \$800.00 in partial satisfaction of the Landlord’s monetary awards.

\$7,250.00	-unpaid rent owing
983.69	-unpaid utilities owing
<u>360.00</u>	- cleaning
<u><b>\$8,593.69</b></u>	<b>TOTAL AWARDS</b>
Less \$ 800.00	-security deposit
<u><b>\$7,793.69</b></u>	-Monetary Order amount

The Landlord is authorized to retain the Tenant’s **\$800.00** security deposit in partial

satisfaction of these awards. I, therefore, grant the Landlord a **Monetary Order** of **\$7,793.69** from the Tenants for the remainder of the monetary awards owing.

### Conclusion

The Landlord is partially successful in his claims for compensation from the Tenants, as he submitted sufficient evidence for monetary awards of **\$8,593.69**. The Landlord is authorized to retain the Tenant's **\$800.00** security deposit in partial satisfaction of the awards.

The Landlord is granted a **Monetary Order** of **\$7,793.69** for the remaining amount of the monetary awards owing. This Order must be served on the Tenants by the Landlord and may be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: December 05, 2022

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Residential Tenancy Branch