



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing

## DECISION

**Dispute Codes**      **MNRL, MNDL / MNETC, FFT**

### **Introduction**

This hearing dealt with two applications pursuant to the *Residential Tenancy Act* (the “**Act**”). The landlord’s application for a monetary order for unpaid rent and for damage to the rental unit in the combined amount of \$688 pursuant to section 67.

And the tenant’s application for:

- a monetary order for \$661 pursuant to sections 50(2), 51(1) and 62 of the Act;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 2:08 pm in order to enable the tenant to call into the hearing scheduled to start at 1:30 pm. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I used the teleconference system to confirm that the landlord and I were the only ones who had called into the hearing.

The landlord testified he served that the tenant with the notice of dispute resolution package and supporting documentary evidence via registered mail to the forwarding address provided by the tenant on June 3, 2022. He provided a Canada Post tracking number confirming this mailing which is reproduced on the cover of this decision. I find that the tenant was deemed served with these documents on June 8, 2022, five days after the landlord mailed them, in accordance with sections 88, 89, and 90 of the Act.

Rule of Procedure 6.6 states:

#### **6.6 The standard of proof and onus of proof**

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application.

As such, the tenant bears the onus to prove the necessary facts to support her application. As she failed to attend the hearing, I find that she has failed to discharge her evidentiary burden to prove that she is entitled to the order sought. Pursuant to Rule of Procedure 7.4, she (or her agent) must attend the hearing and present her evidence for it to be considered. As this did not occur, I have not considered any of the documentary evidence submitted by the tenant to the Residential Tenancy Branch in advance of the hearing.

I dismiss her claim, without leave to reapply.

### **Issues to be Decided**

Is the landlord entitled to a monetary order for \$688?

### **Background and Evidence**

While I have considered the documentary evidence and the testimony of the landlord, not all details of his submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The rental unit is a coach house located on the same residential property as the single-detached house the landlord lives in. The parties entered into a month to month tenancy agreement starting March 29, 2022. Neither party submitted a copy of the tenancy agreement into evidence. Monthly rent was \$1,400 and was payable on the first of each month. The tenant paid the landlord a security deposit of \$700 and a pet damage deposit of \$500, which the landlord returned to the tenant May 17, 2022. The tenancy ended on May 16, 2022, due to the tenant vacating after being given a two month notice to end tenancy for landlord's use of the property.

The landlord testified that he did a walk through inspection at the start of the tenancy, but did not complete a move-in condition inspection report. Similarly, he testified that he conducted a walk through inspection at the end of the tenancy, but did not complete a move-out condition inspection report.

The landlord testified that, in addition to monthly rent, the tenant was obligated to pay \$20 per month for use of his wireless internet. He did not provide any documentation supporting this. He testified that the tenant never paid this. He seeks repayment of \$30 representing 1.5 months usage of this service.

The landlord testified that, after more carefully examining the rental unit after the move-out inspection, he discovered that the tenant damaged it in the following ways:

- 1) The paint on the wall above the fireplace was chipped. He testified that he painted the rental unit prior to the start of the tenancy and that he repaired this damage himself at a cost of \$80.

- 2) The wall switch for ceiling fan was broken. He testified that the tenant told him her dog damaged it. He seeks the replacement cost of the switch, which he testified is \$18.
- 3) The exterior patio light was bent. He alleged that the tenant did not secure the exterior storm door, and that a gust of wind caught it and that it slammed into the patio light, bending its frame. He purchased a new patio light for \$110.
- 4) The door frame of the storm door was damaged as a result of it not being properly secured shut, and having slammed into the patio light fixture. The landlord testified that he had to replace the door frame at a cost of \$140.
- 5) The laminate flooring in front of the washing machine was water damaged. The landlord testified that the day after the tenant moved out he discovered that the floor in front of the washing machine was soaking wet. He testified that he pulled the machine out and confirmed that the connections were not leaking, and that the machine operates properly, without leaks, as of the date of the hearing. He had to replace 4 of pieces of the laminate flooring and one section of baseboard at a cost of \$160. He testified that \$80 of this was for materials and \$80 was for his labour. He stated that it took him four hours to complete the replacement.
- 6) The floors throughout the rental unit smelled of urine. He testified that the tenant had a 4 year old dog who urinated inside the rental unit and that he had to wash all of the floors and walls with vinegar to reduce the smell. He seeks compensation of \$150, representing the time (one full day) it took to clean this.

The tenant did not submit any documents showing how he arrived at the amounts claimed, although he did submit photos of all the damage described.

### **Analysis**

Residential Tenancy Branch Policy Guideline 16 sets out the criteria which are to be applied when determining whether compensation for a breach of the Act is due. It states:

The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

(the “**Four-Part Test**”)

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#### **1. Wireless Internet Charge**

The landlord has not provided any documentary evidence (a written tenancy agreement, classified advert offering the rental unit for rent, text message or email between him and the tenant, for example) supporting his assertion that the tenant is required to pay \$20 per month for use of his wireless internet. As such, I find that he has failed to demonstrate it was more likely than not that the tenant was obligated to pay this amount, and fails the first part of the Four-Part test.

As such, I dismiss this portion of his application, without leave to reapply.

#### **2. Damage to Rental Unit**

Section 37 of the Act states:

#### **Leaving the rental unit at the end of a tenancy**

37(2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear

So, the landlord must prove it is more likely than not that the tenant left the rental unit undamaged, that he suffered a quantifiable loss as a result, and that he acted reasonably to minimize his loss.

The landlord did not conduct a move-in condition inspection of the rental unit. As such, I cannot say what condition it was in at the start of the tenancy. There is no documentary evidence before me to show that the paint on the wall above the fireplace was not chipped, that the fan wall switch was not broken, or that the exterior patio light and storm door were not damaged before the tenant moved in. I cannot therefore conclude that it is more likely than not that the tenant breached section 37 of the Act. I decline to award the landlord any amount for these portions of the landlord's claim.

However, common sense dictates that, at the start of the tenancy, the floor in front of the washing machine was not soaking wet. As such, the starting condition of the

replaced laminate flooring panels and baseboard is not important. I accept the landlord's testimony that the floor in front of the washing machine was soaking wet the day after the tenant moved out and accept the landlord's testimony that the washing machine was not leaking and that it has operated with issue since the tenant vacated the rental unit. From this, I conclude that the water pooled in front of the washing machine was present as the result of the tenant's action or improper use of the washing machine.

I find that such action caused water damage to a portion of the floor and a section of baseboard. I accept the landlord's testimony that he spent four hours replacing the damaged materials and that the cost of their replacement was \$80. This amount seems reasonable in the circumstances. I also find that the landlord acted reasonably by undertaking the repairs himself, and that \$80 is reasonable compensation for the time spent. I order that the tenant pay the landlord \$160 in compensation for the damaged floor.

I also accept the landlord's testimony that the rental unit smelled of urine after the tenant moved out. I do not find it likely that the tenant would have moved into the rental unit had it smelled of urine. Accordingly, I find it more likely than not that the tenant breached the act by allowing her dog to urinate inside the rental unit and not adequately cleaning it up. I accept the landlord's testimony that he spent one full day cleaning the rental unit's floors and walls with vinegar to attempt to eliminate the odor. I find that \$150 is reasonable compensation for this work. Accordingly, I order that the tenant pay the landlord this amount.

### **Conclusion**

The landlord has been partially successful.

Pursuant to section 67 of the Act, I order that the tenant pay the landlord \$310.

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: February 23, 2023

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Residential Tenancy Branch