



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      **MNDCL-S, FFL**

### **Introduction**

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act (“the Act”) for orders as follows:

- A monetary order for loss or other money owed and to retain the security and/or pet damage deposit pursuant to section 67 of the Act
- For reimbursement of the filing fee pursuant to section 72 of the Act

The landlord appeared by agent MM. The tenant did not appear.

The parties were reminded to not record the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

The landlord testified that two packages containing the dispute notice and evidence for the application were served on the tenant by registered mail. One package was sent May 15, 2022 and the second package was sent June 2, 2022. The landlord provided proof of service for both packages in evidence. Service for both parties complies with sections 88 and 89 of the Act.

### **Issue(s) to be Decided**

1. Is the landlord entitled to a monetary order for loss and to keep the security deposit?
2. Is the landlord entitled to recover the filing fee for this application?

### Background and Evidence

The tenancy commenced March 1, 2022 on a month to month basis. Rent was \$2,175.00 per month due on the first day of the month. A security deposit of \$1,087.50 was taken and the landlord still currently holds \$752.00 in trust, having returned the balance to the tenant. The tenant vacated the residence on April 30, 2022 and provided the landlord with his forwarding address on May 1, 2022.

The landlord filed a dispute application on May 13, 2022. The landlord testified that a move in condition inspection report was completed with the tenant on February 26, 2020. The tenant received a copy. The landlord further testified that a move out condition inspection report was completed with the tenant on April 30, 2022 and the tenant received a copy. Neither condition inspection report was provided in evidence.

The landlord stated that at the time the tenant moved out, the landlord was unaware that the tenant had been using the natural gas fireplace and had not placed the natural gas in his name as required under the tenancy agreement. A copy of the tenancy agreement was provided in evidence. The landlord received a bill for \$680.00 for natural gas usage over the course of the tenancy totalling \$680.00. The landlord did not upload the natural gas bill in evidence.

Further the landlord testified that there was some minor damage to the rental unit that required repairs. Upon move out the tenant agreed to the landlord retaining \$100.00 from the tenant's security deposit to pay for the damage. The landlord claims that the repair bill was \$172.00 and is therefore claiming the remaining \$72.00 for the damage repair. The landlord provided the receipt for the repairs in evidence.

The landlord is seeking total compensation in the amount of \$733.12.

### Analysis

Section 67 of the Act establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. As noted in Policy Guideline #16, in order to claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the Act on the part of the other party. Once that has been established, the claimant must then provide

evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove their entitlement to a claim for a monetary award.

The repair bill in evidence does not itemize the repairs and detail the cost for each repair. This is problematic in that some of the items on the list appear to be ordinary maintenance of the rental unit. For example, “tightened kitchen sink” is an item on the list. The landlord did not establish how that repair was due to damage caused directly by the tenant, or whether it was ordinary maintenance. As the various repairs are not itemized, the landlord has failed to establish what, if any damage stemmed directly from a violation by the tenant of the Act or the tenancy agreement, nor has the landlord established the actual monetary amount of the damage. Therefore I find that the landlord has not established an entitlement to claim damages in the amount of \$72.00 from the tenant.

The landlord has established that the tenant violated the tenancy agreement by failing to place the natural gas in his name and failing to pay for the use of the natural gas. I am satisfied based on the undisputed oral testimony of the landlord that the tenant failed to pay for natural gas for the entirety of the tenancy and the total amount owed to the landlord is \$680.00. Therefore, the landlord is entitled to compensation for this amount.

As the landlord is successful in his application, he is also entitled to claim the \$100.00 filing fee for the application.

### Conclusion

The landlord’s application for compensation is granted. The landlord is entitled to retain the security deposit in partial satisfaction of the claim. The landlord is entitled to a monetary order as follows:

| Claim            | Amount         |
|------------------|----------------|
| Utilities        | \$680.00       |
| Filing fee       | \$100.00       |
| Security deposit | (\$752.00)     |
| <b>Total</b>     | <b>\$28.00</b> |

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 7, 2023