



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      MNR, MND, MNDCL, MNSD, FFL

### Introduction

On June 30, 2022, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking money owed or compensation for damage or loss; a monetary order for unpaid rent; a monetary order for damage or repairs; and to keep a security deposit.

The matter was set for a conference call hearing. The Landlord attended the hearing; however, the Tenant did not. The Landlord testified that he served the Tenant with the Notice of Dispute Resolution Proceeding by registered mail sent to the Tenant on July 16, 2022. The Landlord stated that he sent the registered mail to the address provided by the Tenant and recorded on the move out condition inspection report. The Landlord provided a copy of the move out inspection report and a copy of the registered mail receipt and tracking number as proof of service.

I find that that the Landlord served the Tenant with the Notice of Dispute Resolution proceeding in accordance with sections 89 and 90 of the Act. The Tenant is deemed served with notice of the hearing on the fifth day after the registered mail was sent. The hearing proceeded.

The Landlord was provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

The Landlord stated that he was having difficulty uploading his documentary evidence to the RTB to support his claim for damage to the rental unit. The Landlord requested that his claim for damage to the rental unit be dismissed with leave to reapply so that he can provide supporting evidence for his claims.

The Landlord's application is amended to remove the claim for damage to the rental unit. The Landlord has leave to reapply for compensation from the Tenant due to damage to the unit.

### Issues to be Decided.

- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the Landlord entitled to other compensation for damage or loss?
- Can the Landlord keep the security deposit towards his claims?

### Background and Evidence

The Landlord testified that the tenancy began on July 15, 2021, on a month-to-month basis. Rent in the amount of \$1,500.00 was to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit of \$750.00.

The Landlord provided a copy of the tenancy agreement.

### Unpaid June 2022 Rent

The Landlord testified that the Tenant failed to pay the rent owing under the tenancy agreement for the month of June 2022. The Landlord stated that the Tenant paid him \$1,500.00 on June 6, 2022; however, that \$1,500.00 payment was applied to unpaid May 2022 rent that was still owing. The Landlord is seeking \$1,500.00 for unpaid June 2022 rent.

### Loss of Rent

The Landlord testified that the Tenant did not give proper written notice to end the tenancy effective June 30, 2022. The Landlord submitted that the Tenant's written notice is dated June 1, 2022, and is therefore incorrect and is effective for July 31, 2022. The Landlord stated that the rental unit was not rented out for the month of July and the Landlord did not receive any rental income from any other source. The Landlord is seeking \$1,500.00 for a loss of July 2022 rent. The Landlord provided a copy of the Tenant's written notice to end tenancy dated June 1, 2022.

The Landlord testified that the rental unit needed to have all the plumbing serviced as the drain lines were clogged. The Landlord stated that he believes the damage was intentional based on what the plumber pulled out of the drains. The Landlord stated that the rental unit was not rented out for the month of August 2022. The Landlord did not provide any photographs of the drains, or an invoice indicating that the drains were serviced and that there may have been intentional damage by the Tenant.

### Security Deposit

The Landlord testified that the Tenant vacated the rental unit on June 30, 2022. The Landlord applied for dispute resolution to keep the security deposit on June 30, 2022.

### Analysis

The party making a claim for compensation against another party bears the burden of proof. Section 7 of the Act provides that if a Landlord or Tenant does not comply with the Act, the regulations, or their tenancy agreement, the non-complying Landlord or Tenant must compensate the other for damage or loss that results.

To be successful with a claim for compensation an applicant must prove:

1. That the other party breached the Act, regulation, or tenancy agreement.
2. That the breach caused the party making the application to incur damages or loss as a result of the breach.
3. The value of the loss; and,
4. That the party making the claim took reasonable steps to minimize the damage or loss.

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I make the following findings:

### Unpaid Rent

I find that the Tenant failed to pay the rent owing under the tenancy agreement for the month of June 2022.

I award the Landlord the amount of \$1,500.00 for unpaid June 2022 rent.

### Loss of Rent

Section 45(1) of the Act provides that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Residential Tenancy Branch policy guideline #3 Claims for Rent and Damages for Loss of Rent provides the following:

*Where a tenant vacates or abandons the premises before a tenancy agreement has ended, the tenant must compensate the landlord for the damage or loss that results from their failure to comply with the legislation and tenancy agreement (section 7(1) of the RTA and the MHPTA). This can include the unpaid rent to the date the tenancy agreement ended and the rent the landlord would have been entitled to for the remainder of the term of the tenancy agreement.*

I find that the Tenant's notice to end the tenancy was given to the Landlord on June 1, 2022, which is was the same day of the month that rent is due under the tenancy agreement. The Tenant's notice to end tenancy self corrects to be effective July 31, 2022. I find that the Tenant is responsible for any loss of rent suffered by the Landlord up to July 31, 2022. I accept the Landlord's testimony that the rental unit was not rented out for the month of July 2023 and he received no July 2022 rent from any other source.

I award the Landlord the amount of \$1,500.00 for a loss of July 2022 rent.

Wit regard to the Landlord's claim to recover a loss of August 2022, rent, I find there is insufficient evidence from the Landlord to prove that the Tenant is responsible for the need to have the plumbing pipes serviced resulting in a delay in re-renting the unit. The Landlord's claim for \$1,500.00 for a loss of August 2022 rent is dismissed without leave to reapply.

### Security Deposit

I find that the Landlord applied to keep the \$750.00 security deposit within 15 days of the tenancy ending and upon receiving the Tenant's forwarding address in writing.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$3,100.00 comprised of unpaid rent and the \$100.00 fee paid by the Landlord for this hearing. After setting off the security deposit of \$750.00 towards the award of \$3,100.00, I find that the Landlord is entitled to a monetary order in the amount of \$2,350.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

### Conclusion

The Tenant failed to pay June 2022 rent and ended the tenancy without proper notice. The Tenant is responsible to pay the Landlord for unpaid rent for the months of June 2022, and July 2022.

The Landlord has established a monetary claim in the amount of \$3,100.00. I order that the Landlord can keep the security deposit in the amount of \$750.00 in partial satisfaction of the Landlord's awards.

I grant the Landlord a monetary order in the amount of \$2,350.00.

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: April 4, 2023

---

Residential Tenancy Branch