



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HOLLYBURN PROPERTIES  
LIMITED and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      **MNRL-S, MNDL-S, FFL**

### Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- Authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*;
- An order requiring the tenant to reimburse the landlord for the filing fee pursuant to section 72.

A representative of the landlord attended the hearing. The tenant did not attend. The hearing lasted 18 minutes.

The landlord testified the tenant was served with the Notice of Hearing and Application for Dispute Resolution by registered mail twice at the address the tenant provided before moving out. The landlord could not locate the first receipt

and accordingly sent the documents again by registered mail on April 03, 2023. The landlord stated they had the receipt and tracking number.

Based on this undisputed evidence it is my finding that the tenant was served the required documentation necessary for them to participate in the hearing.

### Issue(s) to be Decided

Is the landlord entitled to compensation?

### Background and Evidence

The landlord provided uncontradicted testimony as the tenant did not attend the hearing.

A copy of the written tenancy agreement was in evidence. The 12-month fixed term tenancy began on November 1, 2021, and ended early on August 17, 2022. Rent was \$1,925.00.

The tenant provided a security deposit of \$962.50. The landlord holds the security deposit in trust pending the outcome of this application.

The tenant gave the landlord Notice on August 5, 2022, that he was moving out on August 31, 2022. The tenant moved out on August 17, 2022. He did not pay the last month's rent in full.

The landlord seeks compensation for liquidated damages and costs related to painting and repairs to the damaged interior including holes in the walls. The tenant did not leave the rental unit in a clean and undamaged state caused merely by reasonable wear and tear.

The landlord submitted many photographs in support of their claim.

### *Condition inspection Reports*

The landlord's evidence included a condition inspection report.

The report on moving in was signed by the tenant.

The parties agreed on a condition inspection for August 11, 2022. The landlord attended and the tenant did not.

The landlord provided the tenant with a Notice of Final Opportunity to Schedule a Condition Inspection in the RTB form scheduling the move out inspection for August 17, 2022. A copy of the Notice was submitted as evidence. The tenant did not attend. The landlord completed the form in their absence.

### *Landlord's Claim*

The landlord claimed the tenant moved out owing one half month's rent in the amount of \$962.50.

The landlord claimed liquidated damages under a liquidated damages clause in the tenancy agreement (section 5) in the specified amount of \$805.33

The landlord claimed reimbursement of the following repair costs as reflected in supporting time logs from the landlord's maintenance team.

ITEM	AMOUNT
Painting	\$600.00
Laundry card not returned	\$25.00
Wall repair	\$300.00
Labor	\$200.00
Blinds	\$10.00
<b>TOTAL</b>	<b>\$1,135.00</b>

The landlord claimed reimbursement of the filing fee and authorization to apply the security deposit, waived by the tenant for failing to attend the condition inspection on moving out, to the award:

ITEM	AMOUNT
<b>Rent outstanding</b>	\$962.50
Damages - Liquidated	\$805.33
Damages, compensation (above)	<b>1,135.00</b>
Filing fee	\$100.00
(Less security deposit)	(\$962.50)
<b>TOTAL</b>	<b>\$2,040.33</b>

The landlord requested a Monetary Order in the amount of **\$2,040.33**

### Analysis

Section 7 of the Act states 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.

Section 67 of the Act permits an arbitrator to determine the amount of, and order a party to pay, compensation to another party if damage or loss results from a party not complying with the Act, the regulations, or a tenancy agreement.

Section 37(2)(a) of the Act requires that a tenant “leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear” when they vacate.

Taking into consideration all the undisputed evidence, I find that the landlord has proven on a balance of probabilities that the tenant breached section 37(2)(a) of the Act, that the landlord would not have suffered a monetary loss but for the tenant’s breach, and that the amounts claimed are reasonable in the circumstances. I find the landlord has taken all reasonable steps to reduce the costs claimed.

Pursuant to section 38(4)(b) of the Act the landlord is authorized to retain the tenant's security deposit in partial satisfaction of the amount awarded.

ITEM	AMOUNT
<b>Rent</b>	\$962.50
Damages - Liquidated	\$805.33
Damages, compensation (listed above)	<b>1,135.00</b>
Filing fee	\$100.00
(Less security deposit)	(\$962.50)
<b>TOTAL</b>	<b>\$2,040.33</b>

I grant a Monetary Order in the amount of **\$2,040.33**.

### Conclusion

The application is hereby granted.

I grant a Monetary Order in the amount of **\$2,040.33**.

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: May 17, 2023

---

Residential Tenancy Branch