



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      MNRL-S, MNDCL-S, FFL

### Introduction

The Landlord finalized their Application for Dispute Resolution (the “Application”) on January 17, 2023 seeking compensation for unpaid rent and for other money owed, and to recover the filing fee for their Application.

The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on August 28, 2023. In the conference call hearing, I explained the process and provided the attending party, the Landlord, the opportunity to ask questions on the hearing procedure.

### Preliminary Matter – Landlord’s service of Notice of Dispute Resolution Proceeding

To proceed with this hearing, I must be satisfied that the Landlord made reasonable attempts to serve the Tenant with the Notice of Dispute Resolution Proceeding for this hearing. This means the Landlord must provide proof that they served that document using a method allowed under s. 89 of the *Act*, and I must accept that evidence.

In the hearing the Landlord presented that they specifically obtained an email address from the Tenant for the purpose of service of documents. They showed this in the evidence: one RTB-51 form for each Tenant, signed by that Tenant and dated December 21, 2022. As stated on that form, this constitutes the Tenant’s consent to be served documents related to the tenancy at this email address. The Landlord provided a record of the Tenant’s response to the Landlord’s email attaching the hearing documents on January 25, 2023. The Landlord also provided a copy of the email dated January 25, 2023 with 12 attachments that were the Landlord’s evidence for this hearing.

Based on the submissions of the Landlord, as well as the evidence of their valid email address for service, I find they served the Notice of Dispute Resolution Proceeding in a manner complying with s. 89(1)(f) of the *Act*, which in itself refers to s. 43 of the *Residential Tenancy Regulation*. Because I find that the Tenant was served in a manner authorized by the *Act*, I proceeded with the hearing in the Tenants' absence.

#### Issue(s) to be Decided

Is the Landlord entitled to a monetary order for rent amounts owing, and/or other money owed, pursuant to s. 67 of the *Act*?

Is the Landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

#### Background and Evidence

The Landlord provided basic information about this tenancy. They provided a copy of the tenancy agreement they had in place with the Tenants, signed by the Tenants on April 6, 2021. This set the start to the tenancy for April 6, 2021. The set rent amount was \$1,800, and the Tenant paid a security deposit amount of \$900. The agreement provides for an administrative fee of \$25 for late payment "of all or a portion of the rent".

In the hearing the Landlord clarified that the rent amount of \$1,800 did not increase over the course of this tenancy. Though the Landlord served a notice to increase tenancy formally, that was not scheduled to take effect before this tenancy ended.

The Tenant notified the Landlord of their desire to end this tenancy via email in early December. This was for the end of that calendar month December 2022. In the hearing the Landlord clarified that the final day of this tenancy was December 21, 2022.

The Landlord met the Tenant on that date to review the condition of the rental unit. This is documented in the Condition Inspection Report the Landlord provided in their evidence. The Landlord listed the need for additional cleaning in the rental unit. The Landlord described some pieces as still dirty, and the Tenant had no time to clean up thoroughly before they moved out on that final date.

The Landlord paid for cleaning in the rental unit. This amount was \$340, as shown in the invoice dated December 29, 2022. This was 8 hours of work at \$40 per hour.

Regarding rent owed by the Tenants, the Landlord provided a Tenant Statement showing a balance carried over from a period prior to September 2022, being the exact amount of \$2,700. The Landlord explained that property management duties changed from one company to the next; however, they personally were aware of the state of this tenancy, being involved with both companies involved in that transition.

The statement reveals rent amounts owing for each of September, October, November, and December 2022. Each consecutive month is shown as \$1,800 with the exception of December 2022 that shows as \$1,827. In each month the Tenant incurred a late fee of \$25. This accumulated amount – counting only for an amount of \$1,800 for December 2022 because the Landlord could not explain this \$27 discrepancy – is \$7,300 including the late fees. The record shows some incremental Tenant payments, for the balance due of \$8,500.

The Landlord provided a separate Monetary Order Worksheet in which they indicated the total rent amount of \$10,647. On their Application the Landlord stated they added another \$1,800 for January 2023 because “proper notice wasn’t given to vacate”. In the hearing the Landlord clarified that they were not seeking any rent amount for January 2023.

In total, the Landlord’s claim for compensation from the Tenant is \$8,840.

### Analysis

To be successful in a claim for monetary compensation for loss the Landlord has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

I find the Landlord did not provide sufficient of the need for additional cleaning within the rental unit. The only word that indicates as such – “cleaning” – appears twice on the final page of the condition inspection report, minus any other detail. The Landlord had the opportunity to provide pictures showing unclean spots in the rental unit beyond what could be considered reasonably clean, as the standard set out in the *Act* s. 37. I dismiss the Landlord’s claim for \$340 in extra cleaning costs they paid because I am not satisfied that a loss to them exists.

I find the record clear on rent amounts owing from the Tenant, with the exception of the \$27 discrepancy noted for December 2022. I grant the amount of \$8,500 in compensation to the

Landlord for rent amounts owing. The Landlord explained their communication with the Tenant that was ongoing on the state of rental payments for the latter part of 2022. I am satisfied based on the Landlord's testimony and the record they provided that the amount is \$8,500.

The *Act* s. 72(2) gives an arbitrator the authority to make a deduction from a security deposit held by a landlord. The Landlord has established a claim of \$8,500. After setting off the security deposit of \$900, there is a balance of \$7,600. I am authorizing the Landlord to keep the security deposit amount and award the balance of \$7,600. This is an application of s. 72(2)(b) of the *Act*.

As the landlord is successful in this application for compensation, I find that the Landlord is entitled to recover the \$100 filing fee.

### Conclusion

Pursuant to s. 67 and s. 72 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$7,700 for rent amounts owing, and the filing fee. I provide the Landlord with this Order in the above terms, and they must serve the Tenant with **this Order** as soon as possible. Should the Tenant fail to comply with this Order, the Landlord may file this Order in the Small Claims Division of the Provincial Court where it will be enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: August 28, 2023

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Residential Tenancy Branch