



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

DECISION

Dispute Codes (L) MNRL-S, MNDL-S, MNDCL-S, LRSD, FFL
(T) MNSDS-DR, FFT

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- a Monetary Order for unpaid utilities
- a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act
- a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act
- authorization that the Tenant's security deposit be applied to satisfy the monetary award
- authorization to recover the filing fee for this application from the Tenant under section 72 of the Act

This hearing was also dealt with the Tenants' application for the Landlord's return of the Tenants' security deposit and reimbursement of the filing fee for this application.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

By interim decision dated July 17, 2025, each party confirmed service to the other party by email of their respective proceeding packages.

Service of Evidence

By interim decision dated July 17, 2025, the parties each served the other by email with copies of their evidence. The parties confirmed receipt of the other party's evidence as well as an opportunity to review the evidence prior to the re-scheduled hearing.

Issues for Decision

Is the Landlord entitled to a Monetary Order for unpaid rent?

Is the Landlord entitled to a Monetary Order for damage to the rental unit or common areas?

Is the Landlord entitled to a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement?

Is the Landlord entitled to retain all or a portion of the Tenants' security deposit in satisfaction of the monetary award requested?

Are the Tenants entitled to a Monetary Order for the return of all or a portion of their security deposit?

Is the Landlord or are the Tenants entitled to recover the filing fee for their respective application from the other party?

Background and Evidence

I have reviewed the evidence, and I have considered the testimony of the parties but I will refer only to what I find relevant for my decision.

Evidence establishes the tenancy began on December 1, 2023 and ended on April 30, 2025. No written tenancy agreement was submitted and the parties disagreed whether a tenancy agreement was signed, the Tenants denying there was a written tenancy agreement. The parties agreed the monthly rent was \$2,500.00 and the Tenants provided the Landlord with a security deposit in the amount of \$1,250.00 at the start of the tenancy which the Landlord confirmed she continues to hold in trust. The parties agreed that no pet damage deposit was paid during the term of the tenancy.

The Landlord stated that neither a move-in inspection report nor a move-out inspection report was completed. The Tenants stated they provided their forwarding address to the Landlord in writing in person on May 5, 2025. The Landlord noted the address provided by the Tenants was incorrect; however, the Tenants had moved to a different unit in the same building after they provided the Landlord their forwarding address.

The Landlord submitted electric billing statements for December 12, 2024 to February 11, 2025 in the amount of \$182.57, and February 12, 2025 to April 10, 2025 in the amount of \$103.33. The Landlord explained the Tenants were responsible for electricity charges and during the tenancy she would provide or send copies of the billing statements to the Tenants who would then reimburse her for the cost. The Landlord

further submitted a copy of an annual water and sewer bill for 2024 dated February 25, 2025, in the amount of \$996.13 which she stated the Tenants also were required to pay as part of the tenancy agreement between the parties.

The Tenants denied there was an agreement between the parties that the Tenants would pay the annual water and sewer bill. They testified that at the time they moved in, the Landlord told them they would only be responsible for the electric utility charges. The Tenants agreed they owed the Landlord the electric utility billing statements, but noted they had not previously received copies of these two billing statements submitted by the Landlord in this proceeding.

The Landlord submitted photographs of damage to the unit which she alleged the Tenants bore responsibility. The photographs depicted damage to a window screen, closet doors, ceiling paint that was peeling, damage to the sundeck, water damage by the washing machine and a hole in the drywall. The Landlord also testified the Tenants had not returned the underground garage FOB when they vacated the unit. The Landlord stated she had not sought a replacement of the FOB as she had an extra one that she had provided to subsequent tenants. The Landlord provided two text messages from unidentified individuals providing her with estimates for repairs. These two estimates totaled \$2,300.00.

The Tenants denied any damage to the unit and testified that some of the photographs submitted by the Landlord were taken by them at the start of the tenancy with requests the Landlord make appropriate repair. Tenant H.K. testified the broken window screen occurred during a storm in November 2024, and the photograph submitted by the Landlord of this damage was taken by her and sent to the Landlord after the storm with a request for repair.

The Landlord also requested compensation in the amount of \$600.00 (amending her application from the \$3,000.00 requested) for two days she was off work to attend to the repairs in the unit. The Landlord provided no documentary evidence to establish lost wages in the amount requested.

The Tenants testified that on the day they moved out of the unit, they were unable to locate the garage FOB and the Landlord charged them \$700.00 for this cost, which they requested reimbursement in their application. The Landlord testified the \$700.00 represented unpaid rent and a deposit toward the cost to replace the garage FOB. The Landlord did not testify as to the amount allocated for the FOB. The Tenants stated that they have been unable to locate the FOB since moving.

Analysis

Is the Landlord entitled to a Monetary Order for unpaid utilities?

Section 26 of the Act states that a tenant must pay rent to the landlord, regardless of whether the landlord complies with the Act, regulations or tenancy agreement, unless the tenant has a right to deduct all or a portion of rent under the Act.

Based on the evidence before me, I find the Landlord has established a claim for unpaid electric utilities, agreed to by the Tenants, for the two billing statements in the total amount of \$285.90. However, I decline to award the Landlord damages for the cost of water and sewer to the unit for 2024 in the amount of \$996.13. The Landlord did not provide sufficient evidence to establish the Tenants were liable for water and sewer charges as part of their tenancy agreement.

Section 67 of the Act states 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.

Therefore, I find the Landlord is entitled to a Monetary Order for unpaid utilities under section 67 of the Act, in the amount of \$285.90.

Is the Landlord entitled to a Monetary Order for damage to the rental unit or common areas?

Section 35 of the Act establishes that, at the end of the tenancy, a landlord must inspect the condition of the rental unit with the tenant, the landlord must complete a condition inspection report with both the landlord and the tenant signing the condition report.

Section 32(3) of the Act states that a tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

To be awarded compensation for a breach of the Act, the landlord must prove:

- the tenant has failed to comply with the Act, regulation or tenancy agreement
- loss or damage has resulted from this failure to comply
- the amount of or value of the damage or loss
- the landlord acted reasonably to minimize that damage or loss

Based on the evidence before me, the testimony of the parties, and on a balance of probabilities, I find the Landlord has not provided sufficient evidence to establish a claim for damage to the rental unit or common areas.

The parties contested the condition of the rental unit at the time the tenancy ended. It was incumbent upon the Landlord under the Act to conduct a move-in inspection with the Tenants, completing a written inspection report, at the start and end of the tenancy, which would establish the condition of the rental unit. I find the Landlord has not

provided sufficient adequate evidence to establish the alleged damages to the unit were the result of the Tenants' conduct.

Therefore, I find the Landlord is not entitled to a Monetary Order for damage to the rental unit or common areas under sections 32 and 67 of the Act.

Is the Landlord entitled to a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement?

To be awarded compensation for a breach of the Act, the landlord must prove:

- the tenant has failed to comply with the Act, regulation or tenancy agreement
- loss or damage has resulted from this failure to comply
- the amount of or value of the damage or loss
- the landlord acted reasonably to minimize that damage or loss

Based on the evidence before me and on a balance of probabilities, I find the Landlord has not established a claim for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement.

The Landlord provided no evidence in support of her claim that she lost wages due to her attendance at the unit for repairs to the unit. I find the Landlord has not met her burden of proof on this claim and I decline to award the Landlord damages for lost wages or income.

Therefore, I find the Landlord is not entitled to a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement under section 67 of the Act.

Is the Landlord entitled to retain all or a portion of the Tenants' security deposit in satisfaction of the monetary award requested?

Are the Tenants entitled to a Monetary Order for the return of all or a portion of the security deposit?

Section 38(4) allows a landlord to retain from a security and/or pet damage deposit if, at the end of the tenancy, the tenant agrees in writing that the landlord may retain an amount to pay a liability or obligation of the tenant.

If the landlord does not have the tenant's agreement in writing to retain all or a portion of the security and/or pet damage deposit, section 38(1) of the Act states that within 15 days of either the tenancy ending or the date that the landlord receives the tenant's forwarding address in writing, whichever is later, the landlord must either repay any

security or pet damage deposit or make an application for dispute resolution claiming against the security deposit or the pet damage deposit.

I find the Tenants provided their forwarding address to the Landlord on May 5, 2025, and I find the Landlord timely applied for dispute resolution on May 13, 2025.

Policy Guideline 17 provides:

10. The landlord has 15 days, from the later of the day the tenancy ends or the date the landlord receives the tenant's forwarding address in writing to return the security deposit plus interest to the tenant, reach written agreement with the tenant to keep some or all of the security deposit, or make an application for dispute resolution claiming against the deposit.

Under section 72 of the Act, I allow the Landlord to retain from the Tenants' security deposit of \$285.90 for unpaid utilities in satisfaction of the monetary award.

I find the Tenants did not provide sufficient evidence they had paid the Landlord an additional \$700.00 for the garage FOB for which they requested return from the Landlord as part of their claim for return of their security deposit. I find the issue regarding the Landlord's claim for the cost of the garage FOB conclusively settled as the Landlord testified that some portion of the \$700.00 paid by the Tenants was for unpaid rent for January 2025 as well as a deposit on the missing FOB, and the Tenants testimony they have been unable to locate the garage FOB.

The issue of the security deposit has now been conclusively dealt with in this hearing.

Is the Landlord or are the Tenants entitled to recover the filing fee for this application from the other party?

A request for reimbursement of the filing fee is discretionary with the director under section 72 of the Act. I decline to award either party reimbursement of the filing fee in this case as each party was partially successful on their respective claims.

Conclusion

The Landlord's application for reimbursement for unpaid utilities is granted.

I grant the Tenants a Monetary Order in the amount of **\$1,007.81** under the following terms:

Monetary Issue	Granted Amount
a Monetary Order under section 38 of the Act for return of the Tenants' security deposit plus interest	\$1,293.71
Less unpaid utilities owed to the Landlord under section 26 of the Act	-\$285.90
Total Amount	\$1,007.81

The Tenants are provided with this Order in the above terms and the Landlord must be served with **this Order** as soon as possible. Should the Landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The Landlord's application for damage to the rental unit or common area under sections 32 and 67 of the Act is dismissed, without leave to reapply.

The Landlord's application for money owed or compensation under the Act, regulations or tenancy agreement pursuant to section 67 of the Act is dismissed, without leave to reapply.

The Landlord's and the Tenants' respective applications for reimbursement of their filing fee under section 72 of the Act are each dismissed, without leave to reapply.

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

Dated: August 21, 2025

Residential Tenancy Branch