



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding REMAX CHECK REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND MNR MNSD MNDC FF O

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the *Residential Tenancy Act* (the "Act") for a monetary order for unpaid rent or utilities, for damage to the unit, site or property, to retain all or a part of the tenant's security deposit, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, to recover the cost of the filing fee and other unspecified relief.

An agent for the landlord (the "agent") attended the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide her evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), Application for Dispute Resolution (the "Application") and documentary evidence were considered. The agent testified that the Notice of Hearing, Application and documentary evidence were served on the tenant by registered mail on January 18, 2017 to an address that was confirmed by a location confirmation company (the "LCC") as the agent stated that the tenant failed to provide her written forwarding address to the landlord. I have reviewed the correspondence dated January 6, 2017 from the LCC submitted in evidence by the landlord and I find that the letter supports that the tenant was residing at the residential address at the time the tenant was served with the registered mail package. The registered mail tracking number has been provided on the cover page of this decision for ease of reference. According to the online registered mail tracking website, the registered mail package addressed to the tenant was signed for and accepted on January 19, 2017. Based on the above, I find that the tenant was served on January 19, 2017, the date the registered mail package was signed for and accepted. As I am satisfied the tenant was

sufficiently served under the *Act* and did not attend the hearing, the hearing continued without the tenant present.

### Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenant's security deposit under the *Act*?

### Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed term tenancy began on September 1, 2015 and reverted to a month to month tenancy after February 29, 2016. The agent testified that the tenant vacated the rental unit in mid-September 2016 and did not provide prior written notice to the landlord before vacating the rental unit.

Monthly rent was \$850.00 per month and was due on the first day of each month. The agent confirmed that the tenant paid a \$425.00 security deposit at the start of the tenancy which is supported by the tenancy agreement. The landlord continues to hold the tenant's security deposit which has accrued no interest to date.

The landlord's monetary claim for \$2,256.49 is comprised as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Locating tenant cost	\$252.00
2. Fine for bylaw breach	\$100.00
3. Providing access to unit	\$45.94
4. Providing key for mailbox	\$48.83
5. Replace door latch and lock	\$96.08
6. Repairs to walls and doors	\$190.10
7. Materials for repairs	\$42.93
8. Paint for repairs	\$35.61
9. Cleaning	\$70.00
10. Unpaid rent for September 2016	\$850.00
11. Loss of October 2016 rent	\$850.00
<b>Subtotal</b>	<b>\$2,581.49</b>
<i>(Less tenant's security deposit \$425.00)</i>	<i>-\$425.00)</i>

Cost of filing fee	\$100.00
<b>TOTAL</b>	<b>\$2,256.49</b>

Regarding item 1, the landlord has claimed \$252.00 for services used to locate the tenant. This item was dismissed during the hearing as I find that this specific cost is not recoverable under the *Act*.

Regarding item 2, the landlord has claimed \$100.00 for a bylaw breach fine of \$100.00. The agent referred to the tenancy agreement which supports that the tenant was aware of the Form K, bylaws.

Regarding items 3 and 4, the agent referred to receipts submitted in evidence which support both items as claimed. The agent testified that the tenant failed to return any keys to the landlord including the building access key, rental unit door key and the mailbox key.

Regarding items 5 through 8 inclusive, the agent stated that the tenant caused damage to the doors and walls of the rental unit and referred to several colour photos in support of these items. The agent also presented receipts in support of each amount claimed for items 5 through 8.

Regarding item 9, the landlord has claimed \$70.00 for suite cleaning. The agent testified that while the rental unit was not as dirty as she has seen with other units, it was not left reasonable clean and required an additional 3.5 hours of cleaning at a total cost of \$70.00. The agent referred to a receipt for cleaning for \$70.00 submitted in evidence.

Regarding items 10 and 11, the agent testified that the landlord is seeking unpaid rent for September 2016 of \$850.00 as the tenant failed to pay September 2016 rent. In addition, the agent stated that the landlord is seeking loss of October 2016 rent of \$850.00 as the tenant failed to provide one month's written notice as required under the *Act* so that the landlord could re-rent the rental unit and reduce their loss.

### Analysis

Based on the undisputed documentary evidence and undisputed testimony of the agent, and on the balance of probabilities, I find the following.

As the tenant was served with the Notice of Hearing, Application and documentary evidence and did not attend the hearing, I consider this matter to be unopposed by the

tenant. As a result, and other than item 1 which was dismissed due to there being no remedy for such costs under the *Act*, and taking into account that I find the landlord's evidence and the agent's testimony support the remainder of the monetary claim, I find the landlord's application is successful in the amount of **\$2,329.49** as follows:

ITEM DESCRIPTION	AMOUNT AWARDED
1. Locating tenant cost	dismissed
2. Fine for bylaw breach	\$100.00
3. Providing access to unit	\$45.94
4. Providing key for mailbox	\$48.83
5. Replace door latch and lock	\$96.08
6. Repairs to walls and doors	\$190.10
7. Materials for repairs	\$42.93
8. Paint for repairs	\$35.61
9. Cleaning	\$70.00
10. Unpaid rent for September 2016	\$850.00
11. Loss of October 2016 rent	\$850.00
<b>TOTAL</b>	<b>\$2,329.49</b>

In reaching this finding I have considered the photographic evidence, tenancy agreement, and receipts. In addition, I find that the tenant breached sections 45(1), 37 and 26 of the *Act*. Section 45(1) of the *Act* requires that a tenant not end a month to month tenancy without providing written notice to the landlord one month prior to the date in which rent is due. As a result, I find the landlord is entitled to loss of rent for October 2016. Section 37 of the *Act* requires that a tenant leave the rental unit in a reasonably clean condition less reasonable wear and tear and I find that the agent's unopposed testimony supports that the rental unit was not left in a reasonably clean condition. Section 26 of the *Act* requires that tenants pay rent on the date in which it is due in accordance with the tenancy agreement. Based on the undisputed evidence before me, I find the tenant breached section 26 of the *Act* by failing to pay rent for September 2016.

As the landlord's claim is successful, I grant the landlord the recovery of the cost of the filing fee in the amount of **\$100.00**. Based on the above, I find the landlord has established a total monetary claim of **\$2,429.49**.

Pursuant to section 72 of the *Act*, I authorize the landlord to retain the tenant's full security deposit of \$425.00 which has accrued no interest to date in partial satisfaction of the landlord's monetary claim. I grant the landlord a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlord in the amount of **\$2,004.49**.

### Conclusion

The landlord's application is successful.

The landlord has established a total monetary claim of \$2,429.49 as described above. The landlord has been authorized to retain the tenant's full security deposit of \$425.00 in partial satisfaction of the landlord's monetary claim. The landlord has been granted a monetary order pursuant to section 67 for the balance owing by the tenant to the landlord in the amount of \$2,004.49. The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: July 13, 2017

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Residential Tenancy Branch