



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ONNI PROPERTY MANAGEMENT SERVICES  
INC. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDL-S, OPC, FFL

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. In this application for dispute resolution, the landlord applied on March 7, 2022 for:

- an order of possession, having served a One Month Notice to End Tenancy for Cause, dated January 19, 2022;
- an order for the tenant to pay to repair the damage they, their pets, or their guests caused during the tenancy, requesting to retain the security and/or pet damage deposit; and
- the filing fee.

The hearing was attended by the landlord but not the tenant. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; he was made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The landlord testified he served the Notice of Dispute Resolution Proceeding (NDRP) and evidence on the tenant by registered mail on March 22, 2022, and provided a receipt with tracking number as evidence. The tracking number is noted on the cover page of this decision. The landlord submitted additional evidence to the Residential Tenancy Branch on June 23, 2022; the landlord testified he did not serve this evidence on the tenant.

I find the landlord served the NDRP and his March evidence on the tenant in accordance with section 89 of the Act, and deem the documents received by the tenant on March 27, 2022, pursuant to section 90 of the Act. As the landlord did not serve his June 23 evidence on the tenant, I have not considered it in the decision.

### Preliminary Matter

The landlord testified that as the tenant vacated the rental unit on May 5, 2022, the landlord is no longer seeking an order of possession.

The landlord's application for an order of possession is dismissed; the remainder of the decision will consider the landlord's claims for a monetary order and the filing fee.

### Issues to be Decided

- 1) Is the landlord entitled to compensation for damage caused by the tenant, their pets, or their guests to the unit or property?
- 2) Is the landlord entitled to the filing fee?

### Background and Evidence

Relevant oral and documentary evidence, complying with the Rules of Procedure, was carefully considered in reaching this decision. Only the evidence needed to explain the decision is reproduced below.

The landlord provided the following particulars regarding the tenancy. It began August 1, 2004; rent was \$771.00, due on the first of the month; the tenant paid a security deposit of \$282.00 which the landlord still holds; the tenancy ended on May 5, 2022; and the tenant did not provide a forwarding address in writing.

The landlord testified that move-in and move-out inspection reports were completed, and copies given to the tenant. The landlord testified that the tenant refused to sign the move-out report. Copies of the move-in and move-out inspection reports are submitted as evidence.

The landlord testified the tenant did not authorize him to retain any part of the security deposit.

The landlord testified that despite multiple warnings, the tenant kept their unit in a very cluttered and unclean state. The landlord submitted as evidence photos and multiple warning letters regarding inadequate cleanliness and sanitary standards in the tenant's unit. The landlord testified that a pest control contractor confirmed that the tenant's unit was the source of a cockroach infestation.

The landlord testified he is seeking \$399.00 for pest control costs incurred, and submitted two invoices and a monetary order worksheet in support. The invoices record pest control work done in the tenant's unit and areas of the property surrounding the tenant's unit.

The landlord testified the pest control fees were paid, but as payment is made by the company's accountant, the landlord did not have a copy of the receipts.

## Analysis

### *Security Deposit*

Section 24 of the Act provides that the right of a landlord to claim against a security deposit is extinguished if they do not comply with the requirements of section 23 in offering the tenant 2 opportunities for an inspection and completing a condition inspection report.

Section 23(4) of the Act states that the landlord must complete a condition inspection report in accordance with the regulations.

Section 20 of the *Residential Tenancy Regulation* (the Regulation) includes standard information that must be included in a condition inspection report. The section 20 requirements include:

- 20(1)(f) a statement of the state of repair and general condition of each room in the rental unit;
- 20(1)(g) a statement of the state of repair and general condition of any floor or window coverings, appliances, furniture, fixtures, electrical outlets and electronic connections provided for the exclusive use of the tenant as part of the tenancy agreement;

- 20(1)(k) the following statement, to be completed by the tenant:

I, .....

Tenant's name

agree that this report fairly represents the condition of the rental unit.

do not agree that this report fairly represents the condition of the rental unit, for the following reasons:

.....  
.....

In the rental unit condition report submitted by the landlord, the left-hand column is cut off, such that the inspection areas are illegible:

	GOOD	POOR	GOOD	POOR		
<b>KITCHEN:</b>						
Cabinet-Physical	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Edge-Physical	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Counter-tops & sink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Backboards	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Fliling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Plugs & Trim	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Door	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Dishwasher	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Disposal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
<b>BATHROOM:</b>						
Bathtub	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Fliling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Floors & Walls	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Fixtures & Mirror	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Light	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Towel Racks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
<b>HALL &amp; DINING ROOM:</b>						
Light	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Plugs & Trim	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Windows & Doors	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Paint	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Room(s):						
Carpet 2 Rooms	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	

	GOOD	POOR	GOOD	POOR		
<b>LAUNDRY ROOM:</b>						
Light Fixtures	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Door	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Windows & Drapes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
<b>LAUNDRY FIXTURES:</b>						
Lighting	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Electricals & Switches	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Water-Comm.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Working Stall #	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	
Locker #	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$	

Additionally, the report does not include the tenant's statement as required by section 20(1)(k).

I find the landlord did not complete a move-in inspection report in accordance with section 23 of the Act, and consequently has extinguished his right to make a claim against the deposit for this tenancy.

The landlord testified that the tenant vacated on May 5, 2022, the landlord still holds the security deposit, and the tenant did not provide a forwarding address in writing.

Section 38(1) states:

**38(1)** Except as provided in subsection (3) or (4) (a), within 15 days after the later of

- (a) the date the tenancy ends, and
- (b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Section 38(6) states:

- (6) If a landlord does not comply with subsection (1), the landlord
  - (a) may not make a claim against the security deposit or any pet damage deposit, and
  - (b) must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable.

I find that although the landlord extinguished his right to claim against the deposit, the landlord is not required to pay the tenant double the amount of the security deposit because the tenant failed to provide the landlord a forwarding address in writing.

### *Damages*

Section 67 of the Act establishes 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. To claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage or loss, and that it stemmed directly from a violation of the agreement or a contravention of the Act on the part of the other party. Once that has

been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

[Policy Guideline 17](#) includes that a landlord who has lost the right to claim against the security deposit for damage to the rental unit retains the rights to file a claim against the deposit for any monies owing for other than damage to the rental unit; and to file a monetary claim for damages arising out of the tenancy, including damage to the rental unit.

Section 32(2) of the Act states that a tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit.

The landlord has provided affirmed undisputed testimony and documentary evidence demonstrating that the tenant kept the unit in a cluttered and unclean state, which, according to a pest control professional, resulted in a cockroach infestation in the unit and surrounding areas of the property.

The landlord has submitted documentary evidence demonstrating the services of a pest control professional were engaged, and the cost to the landlord.

In order to make a claim for a monetary award for damages, the applicant must show, on a balance of probabilities, that the damage arose during the tenancy, and is greater than that which would be expected in the ordinary course of occupying a rental suite. I find that the evidence presented meets that evidentiary burden.

Consequently, I find that the landlord is entitled to a monetary award for \$399.00, the amount paid for pest control.

In accordance with section 72 of the Act, I allow the landlord to retain \$282.00 of the tenants' security deposit in partial satisfaction of the amount owing.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the landlord is successful in their application, I order the tenant to pay the \$100.00 filing fee the landlord paid to apply for dispute resolution.

I find the landlord is entitled to a monetary order as follows:

Pest control costs	\$399.00
Filing fee	\$100.00
Less security deposit	-\$282.00
<b>Owed to landlord</b>	<b>\$217.00</b>

Conclusion

The landlord is granted a monetary order in the amount of \$217.00.

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: July 19, 2022

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Residential Tenancy Branch