



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes MND, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order for alleged damage to the rental unit, an order to retain the security deposit in partial satisfaction of the claim, and to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

### Issue(s) to be Decided

Is the Landlord entitled to monetary compensation from the Tenant?

### Background and Evidence

According to the testimony of the Agent for the Landlord, this tenancy began in October of 2002, and the Tenant paid the Landlord a security deposit of \$365.00 on October 11, 2002. The Tenant testified that she gave the Landlord six weeks Notice she was ending the tenancy, and it ended on March 31, 2010.

The Landlord is alleging the Tenant damaged the linoleum in the kitchen and the bathroom, did not shampoo the carpets and failed to clean the balcony deck prior to vacating.

In evidence the Landlord submitted invoices for the above work and two photographs of the linoleum floors. The Agent for the Landlord testified there was an incoming condition inspection report performed at the outset of the tenancy, however, he did not supply this in evidence because it was not done on a newer form. The Agent also testified that the Tenant refused to do an outgoing condition inspection report and that is why he had none to provide in evidence.

The Agent for the Landlord testified that the linoleum floors had been installed in the rental unit about one year prior to the Tenant moving in, around 2001. He claims the Tenant's pet rabbits have caused the damage to the linoleum in the kitchen and bathroom.

The Landlord is claiming \$720.30 for replacing the kitchen and bathroom floor and \$155.15 for shampooing the carpets and cleaning the balcony.

The Tenant testified she had not received any evidence for the hearing from the Landlord. The Agent for the Landlord testified he went to the Tenant's new apartment in person and delivered it to the Tenant's son. The Tenant denied this had occurred and explained her son does not live with at her new address.

The Tenant agreed she did not shampoo the carpets or clean the dirt marks from her potted plants off the balcony when she vacated the rental unit. She testified she did not know she was responsible to clean these.

The Tenant further testified that the kitchen and bathroom floors were already damaged when she moved in, and a different Agent for the Landlord had promised her these would be repaired. The Tenant testified this had not been done during the tenancy.

The Tenant testified that she did not recall that an incoming condition inspection report had been performed when she moved in.

The Tenant agreed that her rabbit had bitten a corner of the linoleum, however, she testified that the floors were already damaged when she moved in.

The Tenant had entered into evidence copies of several documents she had given to the Landlord during the tenancy regarding her requests to have repairs done to the rental unit, and due to other alleged breaches of the tenancy agreement by the Landlord. The Agent for the Landlord acknowledged receiving these, although it appears this evidence was delivered late.

The Tenant testified that the Landlord had already received copies of these documents when they were sent some time ago, and that they should be in the Landlord's records. One of these documents is dated February 1, 2009, and relates to the Landlord eliminating the Tenant's parking stall and in it she refers to repairs and upkeep required in the rental unit.

Another document appears to have been given to the Landlord in August of 2009, and the Tenant refers to the Landlord's obligation to maintain the rental unit in a condition of repair that complies with health, housing and safety standards. The Tenant also notes the bathroom and kitchen floor (among other items), require repair in this document.

### Analysis

Based on the above, the testimony, evidence and photographs, and on a balance of probabilities, I find that the Tenant has breached the Act and tenancy agreement by failing to have the carpets and balcony cleaned at the end of the tenancy.

I dismiss the Landlord's claim for replacement of the kitchen and bathroom floors, as I find the Landlord had insufficient evidence to prove that the Tenant or her pet rabbit damaged the linoleum floor to the extent claimed by the Landlord. Furthermore, the Tenant has undisputed evidence that these issues were brought to the Landlord's attention for repair during the tenancy.

Furthermore, despite the Landlord not providing copies of evidence to the Tenant, I have reviewed the two photographs entered. These show one linoleum floor installed over an older layer of linoleum. The top layer has come out from under the metal runner, often referred to as a "reducer", which transitions the joint between the carpet and the linoleum. It is evident the linoleum has lifted up from under the reducer. The upraised linoleum has been curled back, likely from catching when people walk over it, and the edges had been worn off. It appears the linoleum has passed its useful life expectancy in any event.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

As the Tenant admitted to not cleaning the carpet or balcony, and based on the invoices provided, I find that the Landlord has established a total monetary claim of **\$165.15** comprised of \$155.15 for carpet and balcony cleaning and \$10.00 toward the filing fee for the Application. As the Landlord has only been partially successful in this claim, I only award part of the fee to be returned.

I order that the Landlords may keep \$165.15 from the security deposit and interest of **\$377.93** in full satisfaction of the Landlord's claims.

Pursuant to the policy guideline to the Act, I also order the Landlord to pay the Tenant the balance due of **\$212.78**, and I grant and issue the Tenant an order in those terms.

This order must be served on the Landlord and may be filed in the Provincial Court (Small Claims) and 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: August 19, 2010.

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Dispute Resolution Officer