



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNR, MNDC, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Despite having been served with the landlords' documentary evidence, application for dispute resolution and notice of hearing by registered mail on September 9, 2015, the tenants did not participate in the conference call hearing. The landlord gave affirmed evidence.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background, Evidence

The landlord's undisputed testimony is as follows. The tenancy began on September 29, 2014 and ended on July 31, 2015. The tenants were obligated to pay \$2400.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$1200.00 security deposit. The landlords stated that they made numerous attempts to conduct condition inspection reports with the tenant but he continually refused to participate or sign off on the condition of the unit. The landlords stated that on July 20, 2015 the tenant gave notice that he would be moving out by July 31, 2015. The landlord stated that they advised the tenant that this was unacceptable. The landlord stated that they made aggressive efforts to rent the unit as soon as possible and did so for August 15, 2015. The landlord stated that they are seeking the loss of revenue for the first two weeks of August in the amount of \$1200.00.

The landlord stated that the unit was brand new when the tenant moved in and had a strict no smoking policy anywhere on the property. The landlord stated that the tenant had smoked in the garage and left two large coffee cans full of cigarette butts behind. The landlord stated that the garage needed to be repainted and cleaned to remove the smell of cigarettes. The landlord stated that the tenant did not return the garage remote.

The landlord stated that the tenant did not clean the carpets or the suite at move out. The landlord stated that the tenant left many items behind. The landlord stated that due to the tenants actions they incurred many costs, they are as follows:

1.	Loss of Revenue August 1-14	\$1,200.00
2.	Paint and Labour	\$358.81
3.	Suite Cleaning and Carpet Cleaning	\$355.00
4.	Garage remote	\$35.99
5.	Rubbish and furniture removal	\$90.00
6.	Filing fee	\$50.00
	Total	<b>\$2089.80</b>

### Analysis

Section 67 of the Act states that when a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. **To prove a loss the applicant must satisfy all four of the following four elements:**

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

I address the landlords' claims and my findings as follows.

1. Loss of Revenue - \$1200.00

The landlord stated the tenant only gave eleven days' notice to vacate the suite.

Section 45 of the Act addresses this issue as follows:

- 45** (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Based on the undisputed testimony before me, I find that the tenant did not give a full month's notice as outline above and was in breach of Section 45 and that the landlord is entitled to \$1200.00 for the loss of revenue.

2. Paint and Labour - \$358.81.

The landlords stated that they did the painting themselves to cut down on the costs and to prepare the unit for re-rental as quick as possible. The landlords are seeking \$178.81 for paint and 6 hours x \$30.00 per hour labour equalling \$180.00 for a total claim of \$358.81. I find that the hourly rate the landlord is seeking is reasonable. The landlords submitted receipts, a condition inspection report and testimony to support their claim. Based on the above and in the absence of any disputing evidence from the tenant, I find that the landlords are entitled to \$358.81.

3. Suite Cleaning and Carpet Cleaning - \$355.00

The landlords stated that they rented a carpet cleaner and shampooed the carpets themselves. The landlords stated that they cleaned the unit for 10 hours and seek \$30.00 per hour labour costs. The landlords conducted the work themselves in an attempt to mitigate loss, control costs and re-rent as soon as possible. The landlords submitted receipts, a condition inspection report and testimony to support their claim. Based on the above and in the absence of any disputing evidence from the tenant, I find that the landlords are entitled to \$355.00.

4. Garage Remote - \$35.99

The landlord stated the tenant did not return the garage remote. The landlord provided the condition inspection report that shows a remote was given to the tenant at move in. The landlord provided a receipt to support the claim as sought. The landlord has provided sufficient evidence to support their claim and I find that they are entitled to \$35.99.

5. Rubbish and Furniture Removal - \$90.00

The landlord stated that it took 3 hours to disassemble and remove the tenants' furniture and rubbish that he left behind. The landlord seeks \$30.00 per hour for his labour. The landlord provided the condition inspection report and oral testimony to support his claim. Based on the above and in the absence of any disputing evidence from the tenant, I find that the landlords are entitled to \$90.00.

#### 6. Filing Fee

As the landlords have been successful in their application, they are entitled to the recovery of the filing fee of \$50.00.

#### Conclusion

The landlord has established a claim for \$2089.80. I order that the landlord retain the \$1200.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$889.80. This order may be filed in the Small Claims Court 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: March 01, 2016

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Residential Tenancy Branch

