



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, MNR, FF, MNDC

### Introduction

This hearing dealt with an application by the landlord to retain a portion of the security deposit in full satisfaction of the claim. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The tenants acknowledged receipt of evidence submitted by the landlord. The tenants did not provide any documentary evidence for this hearing. Both parties gave affirmed evidence.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background, Evidence

The landlord's testimony is as follows. The tenancy began on November 30, 2014 and ended on November 30, 2015. The tenants were obligated to pay \$2450.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$1225.00 security deposit.

The landlord is applying for the following:

1.	Suite Cleaning	\$140.00
2.	Carpet Replacement	\$150.00
3.	Light Bulbs	\$50.00
4.	Damaged Blind Vanes	\$60.00
5.	Oil Stain in parking lot	\$250.00
6.	Filing fee	\$50.00
	Total	<b>\$700.00</b>

The landlord stated that he and the tenant conducted move in and move out written condition inspection reports. The landlords' notation on the report indicates that the tenant was responsible for a missing mailbox key and the cost to repair damaged vanes

for the vertical blinds. Subsequent to the report, the landlord stated that the new incoming tenants complained about the cleanliness of the unit and sought compensation for their seven hours of cleaning. The landlord stated that the new tenants were given \$140.00 to reflect 7 hours of cleaning x \$20.00 per hour. The landlord stated that the tenants' left four burnt out halogen bulbs at move out. The landlord stated that they left some lights behind but were the wrong size. The landlord stated that it cost \$50.00 to replace the four halogen bulbs.

The landlord stated that the tenants left a large noticeable stain on the carpet and that he received negative feedback from potential renters because of those stains. The landlord stated that the carpets weren't new but seeks \$150.00 towards the carpet replacement. The landlord stated that the carpets were replaced in May 2016. The landlord stated that the tenant had damaged three window vanes on the vertical blinds that cost him \$60.00 to replace. The landlord stated that the condition inspection report supports that the blinds were in good condition at move in and that the tenants are responsible for the damage.

The landlord is seeking \$250.00 for oil stain cleaning of the parking stall assigned to the tenants. The landlord stated that the strata had notified him for the potential by law fine if action was taken to clean the stalls in April 2015 and was concerned that this could result in those fines. The landlord stated that he noticed the fresh oil stains in the spot as the tenant drove away after having conducted the condition inspection move out report on November 30, 2015.

The tenants gave the following testimony. The tenants stated that the unit was given back to the landlord cleaner than when they received it. The tenants stated that they spent an entire day cleaning the unit for the new tenants. The tenants stated that they hired a professional carpet cleaner to clean the carpets. The tenants stated that they found the number posted in the building. The tenants stated that the carpets were old and already in poor condition at move in but were left much cleaner than when they took possession of the unit.

The tenants stated that they purchased lightbulbs but were unable to remove the existing ones. The tenants stated that they didn't want to break them so they left the lightbulbs behind for the landlord or new tenants to install. The tenants stated that the vanes on the blinds were already broken at move in but they chose not to complain about it. The tenants stated that they didn't want to be problem tenants and point out pre-existing damage so they just lived with it. The tenants stated that the oil stain cannot be attributed to them. The tenants stated that their vehicle does not leak oil and that the landlord did not point this out at the time of the move out condition inspection.

The tenants stated that the landlord sent an email two days later but they were never given an opportunity to mitigate the costs.

### Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the landlord's claim and my findings around each are set out below.

I address the landlord's claims and my findings around each as follows.

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.

1. Suite Cleaning - \$140.00.

The landlord conducted the condition inspection report with the tenant at move out. The landlord did not make any notations in regards to cleanliness. The landlord only had an issue with it after the new incoming tenants complained about the condition. The landlord alleges he received an e-mail from the new tenants but only provided a "cut and paste" portion of it on December 12, 2015 to the subject tenants, I find this email to be unreliable and of little weight. Based on the insufficient evidence before me I dismiss this portion of the landlords claim.

2. Carpet Replacement - \$150.00.

The applicant must meet satisfy all four grounds to be successful. I asked the landlord the age of the carpet and he replied, "I don't know, do you want me to guess?" As noted in the previous claim, the landlord did not make any notations about the carpet at the

move out condition inspection report. In addition, the landlord could not give a clear answer to the age of the carpet. Policy Guideline 40 addresses the useful life of building elements and lists carpets useful life as 10 years. The tenant referred to the carpet being at least 15 years old, a fact that the landlord did not dispute which would result in no award being made as it had exceeded its useful life. Based on the landlords' inability to provide a clear answer in terms of the age of the carpet, the lack of notation on the inspection report, the insufficient evidence before me, and on a balance of probabilities, I must dismiss this portion of the landlords' claims.

3. Light bulbs \$50.00

Policy Guideline 1 states that a tenant is responsible for replacing light bulbs during and at the end of their tenancy. The landlord submitted a receipt to support this claim. Although the tenants purchased bulbs, they were the wrong ones. The tenants acknowledged that they did not replace the lightbulbs. Based on the above I find that the landlord is entitled to \$50.00.

4. Broken Vanes for Vertical Blinds – \$60.00

The tenants stated that the damage was pre-existing and chose not to complain about it. The landlord stated that the blinds were in good condition as per the condition inspection report. The landlord submitted a receipt to support this claim. The landlord has provided sufficient evidence to satisfy me on a balance of probabilities that the tenant is responsible for this claim and I find that he is entitled to \$60.00.

5. Oil Stain Cleanup - \$250.00.

The landlord stated that he noticed the oil stain as the tenant drove away on November 30, 2015 after conducting the condition inspection move out. The landlord did not advise the tenant for two days about the stain or offer an opportunity for the tenants to remedy the situation. As noted in several other claims, the landlord is attempting to assign responsibility for deficiencies to the tenants well after the condition inspection report was conducted. In addition to that, he did not allow the tenant an opportunity to mitigate the costs.

The condition inspection report is an opportunity for both parties to walk through the unit and make notations of deficiencies at the start and end of tenancy. The parties undertake this in "good faith" that what is listed on the report is a fair and reasonable reflection of the unit. One party cannot later state that "I was trying to be flexible and fair", and then turn around and seek to enforce a right they believe they have; as is the case with landlord in regards to this claim. Based on the above, the insufficient evidence

before me, and on a balance of probabilities the landlord has failed to satisfy all four grounds as outlined above and I must dismiss this portion of their claim.

As the landlord has been partially successful in this application they are entitled to the recovery of the \$50.00 filing fee.

### Conclusion

The landlord has established a claim for \$160.00. I order that the landlord retain \$160.00 from the security deposit in full satisfaction of the claim. The landlord is to return the remaining balance of \$1065.00 to the tenants. I grant the tenants an order under section 67 for the balance due of \$1065.00. 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: July 14, 2016

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Residential Tenancy Branch