



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MND, MNDC, MNSD, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for damage to the unit - Section 67;
3. A Monetary Order for compensation - Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Preliminary Matter

The Landlord submitted a package of materials that included a revised monetary order worksheet increasing the total monetary claim set out in the application. The package did not include any amendment form.

Rule 4.1 of the Residential Tenancy Branch (the “RTB”) Rules of Procedure provides that an application may be amended by:

- Completing an amendment to an application for dispute resolution form; and
- Filing the completed form and supporting evidence with the RTB.

Given the lack of required RTB form I find that the Landlord's application has not been amended and the Landlord's application is therefore restricted to the claimed amount in the original application. The costs being claimed in the revised monetary worksheet that are not in the original application are dismissed.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on May 1, 2015 and ended on December 31, 2015 although the keys to the unit were returned by December 28, 2015. Rent of \$1,300.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$400.00 as a security deposit and \$400.00 as a pet deposit. The Parties mutually conducted a move-in and move-out inspection and condition reports for each were completed. The Landlord received the Tenants' forwarding address on January 5, 2016. The claim for unpaid utilities has been fully satisfied by the Tenants.

The Landlord states that the Tenants left the carpet stained and smelling of pet urine. The Landlord states that even if the Tenants cleaned the carpets themselves at the end of the tenancy they failed to get rid of the smell. The Landlord states that this damage is not noted in the move-out report as the carpets were visually clean, because the Landlord verbally informed the Tenants of the odor during the inspection and because the Landlord thought the smell would go away. The Landlord states that the carpets are about 10 years old and ultimately had to be removed on February 19, 2016 as the odor did not come out after professional cleaning. The Landlord states that the Tenants also kept another cat in the unit for a period of time. The Landlord states that other than the Landlord's cat living in the unit 4 years prior to this tenancy there have been no other pets in the unit. The Landlord claims \$472.50 as the costs of cleaning the carpet done January 5, 2016. The Landlord states that since the carpets were still good he did not consider removing the carpet until after the cleaning failed to remove the odor. The

Landlord also claims \$46.13 for his time to monitor the carpet repairs and cleaning. It is noted that the move-out condition report only indicates the carpets being worn.

The Tenants deny any smell in the unit caused by their pets or the visiting pet. The Tenant states that the carpets were vacuumed and steam cleaned properly by their own machines. The Tenant states that he has worked as a professional steam cleaner in the past. The Tenant states that the tenants in the basement unit constantly smoke marihuana inside their unit and that this smell overwhelms any other smell that may be present. The Tenant states that there was never any smell during the tenancy or at the end. The Tenant states that the carpet is between 10 and 12 years old and that the Landlord had informed the Tenants at their move-in that the carpets would be changed. The Tenant states that they only lived in the unit for 6 months and did not cause any damage to the carpet.

The Landlord states that the drapes smelled like dog likely from the dog rubbing against them and that they therefore required cleaning. The Landlord states that the drapes were cleaned on January 3, 2016 and claims the cost of \$115.25. The Landlord also claims his labour costs to remove and rehang the drapes in the amount of \$30.00. The Tenant states that the drapes were blocked off by the furniture and the dog had no access. The Tenant states that the drapes were supposedly cleaned before they moved in and deny that the drapes carried any dog smell. The Tenant questions why the drapes would have been sent for cleaning before the carpets were cleaned by the Landlord. The Landlord states that the drapes were cleaned 1.5 years prior to the onset of the tenancy. It is noted that the move-out reports notes the drapes as clean.

The Landlord states that retention clips from the inside of the stove panel were broken at move-out and that only the Tenant could have caused this damage likely by pushing too hard on the panel. The Landlord states that the stove is about 9 years old. The Landlord claims \$4.20 for the costs of materials and \$20.00 for two hours of labour. The Tenant states that the panel was used normally and that the Tenant did nothing to cause the clips to break. The Tenant states that he told the Landlord during the tenancy

that this occurred and that if the Landlord brought the clips the Tenant would make the repairs. The Tenant states that the Landlord never brought the clips.

The Landlord states that the Tenants left the walls dirty and that they required washing. The Landlord states that it took 7 hours to wash the walls and claims \$71.75 for his labour. It is noted that only the living room walls are noted as dirty on the move-out report. The Landlord provided photos. The Tenant states that some walls had a few spots but nothing significant. The Tenant states that they missed one baseboard.

The Landlord states that the unit was rented to new tenants for January 1, 2016 for the same rental rate but that due to the damage left by the Tenant the Landlord lost 2 weeks rental income as the new tenants were given that rental reduction for having to live through the repairs. The Tenant states that the new tenants were the Landlord's friends and that the Landlord has no documentary evidence of the new tenancy or the amount of rent paid.

### Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. RTB Policy Guideline #40 provides that the useful life of a carpet is 10 years old. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. This section further provides that a claiming party must do whatever is reasonable to minimize the loss being claimed.

While the Tenants may have left the carpet with the smell of cat urine, given the undisputed evidence of the age of the carpet I find that any there was no longer any useful life left to the carpet and that the Landlord has therefore not substantiated that the Tenants caused any loss to the value of the carpet. I dismiss the claim for costs to clean the carpets and the Landlord's time to oversee the cleaning.

Given the move-out report indicating clean drapes and considering the Tenant's evidence of no smell I find that the Landlord has failed on a balance of probabilities to substantiate that the Tenants left the drapes unclean. I therefore dismiss the claim for cleaning costs.

Without any evidence of the Tenant using the stove in a manner that is out of the ordinary, considering that the clips are structural and inside a panel of a stove that is 9 years old, I find that the Landlord has not substantiated that the stove was damaged beyond reasonable wear and tear. I also consider that by not accepting the Tenant's repair help without any reasons that the Landlord failed to act reasonably to minimize the losses claimed. I therefore dismiss the claim for repairing the stove.

Given the photos and the Tenant's evidence of a few spots I find that the Landlord has substantiated that the Tenant failed to leave the walls reasonably clean in that the unit required some wall washing. Given the very reasonable labour cost claimed I find that the Landlord has substantiated an entitlement to **\$71.75**.

Given that the Landlord has only substantiated that the Tenant failed to leave the walls clean and considering that this task would not reasonably take 2 weeks to complete, I find that the Landlord has failed to substantiate that the Tenant caused the lost rental income due to repairs to the unit and I dismiss this claim.

As the Landlord's application has met with minimal success and as required return of monies to the Tenant is significantly greater, I decline to award recovery of the filing fee. Deducting **\$71.75** from the security and pet deposit of **\$800.00** plus zero interest leaves **\$728.25** to be returned to the Tenants forthwith.

### Conclusion

I Order the Landlord to retain \$71.75 from the security deposit plus interest of \$800.00 in full satisfaction of the claim.

I grant the Tenant an order under Section 67 of the Act for **\$728.25**. If necessary, 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: August 31, 2016

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Residential Tenancy Branch