



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord and both tenants.

While the landlord had not identified specifically that he was seeking to retain the deposit on his Application the parties agreed that they would like me to determine the disposition of the deposit including, if applicable, to set off any the debt owed to the landlord by applying the deposit to it.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for compensation for cleaning of and/or repairs to the rental unit; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The parties agreed the tenancy began on August 15, 2014 for a 1 year fixed term that converted to a month to month tenancy on August 15, 2015 for a monthly rent of \$1,350.00 due on the 1<sup>st</sup> of each month with a security deposit of \$650.00 paid. The parties agreed the tenancy ended on October 31, 2016.

The landlord submitted that prior to the end of the tenancy, on September 12, 2016, the tenants contacted him and advised that there was a water leak under the bathroom sink that they discovered the night before. The landlord was informed that the tenants had cleaned up under the sink and put a bucket to contain the water but that the tenants' son overflowed the bucket.

On the same day the landlord received a call from the complex's maintenance person indicating he had been contacted by the occupants of the unit below this unit because they had water leaking into their bathroom.

The landlord seeks compensation for the cost of repairs to the dispute address as well as the unit below in the total amount of \$3,619.98 for restoration work and for an additional \$633.76 for a replacement and installation of the bathroom vanity.

The tenants submit that the amount of damage caused to both their unit and the unit below indicates that the leak had been occurring for an extended period of time or at the very least was a result of something greater than an overturned bucket. They submitted that they were not aware of the leak at all because they stored their toilet paper under the sink and did not see any indications of a leak until they went to get some toilet paper and it was wet.

They further submitted that they cleaned it up and placed a bucket underneath to catch any further leaks and that ultimately they turned off the water to the sink, after the property manager advised them of the complained from the occupants below. The tenants acknowledged that they placed a bucket underneath but that their son used the sink and the bucket did overflow.

The landlord also seeks the following compensation for the condition the rental unit was left in at the end of the tenancy:

Description	Amount
Garage door opener replacement	\$54.88
Drywall repairs and paint	\$210.00
Replacement of 7 lightbulbs	\$43.78
Replacement of thermostat	\$65.50
Light fixture shade replacement	\$14.15
General cleaning	\$227.50
Carpet cleaning	\$135.45
<b>Total</b>	<b>\$751.26</b>

In support of these claims the landlord has submitted several photographs of the condition of the unit, taken at the end of the tenancy; a written summary of the damage at the end of the tenancy; and estimates/invoices for work required. The landlord submitted that the damage to the bathroom vanity was related to the flood but was not discovered until the tenants moved out of the rental unit. I note the landlord did not submit a record of the condition of the rental unit at the start of the tenancy.

The tenants do not dispute that they owe the landlord for the replacement of the garage door opener; 7 lightbulbs; and the light fixture shade. The tenants also acknowledge that they had not cleaned the fridge and the oven, but that the unit had been cleaned by professional cleaners they had hired. The tenants did not submit any documentary evidence, such as a receipt, to confirm that they had the rental unit professionally cleaned.

The tenants confirmed that they had not cleaned the carpets but that they had covered all of the carpets during the tenancy with their removable rugs – wall to wall, leaving none of the landlord's carpets exposed.

While the tenants did not dispute the need for minor drywall repairs they did not believe that it was more than reasonable wear and tear. The tenants acknowledge that the thermostat had broken about a month prior to the end of the tenancy and that they had not reported it to the landlord.

### Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 32(1) of the *Act* requires the landlord must provide and maintain residential property in a state of decoration and repair that complies with the health, safety, and housing standards required by law and having regard to the age, character and location of the rental unit make it suitable for occupation by a tenant.

Section 32(2) states a tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and Section 32(3) states the tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the property by the tenant.

In regard to the flood that occurred in the rental unit just prior to the end of the tenancy I have combined the landlord's request for compensation for the restoration costs and the vanity replacement costs as the landlord has indicated that the damage to the vanity resulted from the flood.

While I accept that a flood occurred during the tenancy and that the tenants had originally not turned off the water but placed a bucket to capture water from the leak which later overflowed, I am not satisfied that the spilled bucket caused the amount of damage that would have required the extensive repairs to either this unit's bathroom or the lower unit's bathroom.

When one party to a dispute provides testimony regarding circumstances related to a tenancy and the other party provides an equally plausible account of those circumstances, the party making the claim has the burden of providing additional evidence to support their position. In the case before me, this burden rests with the landlord.

Neither party has provided evidence as to what the cause of the leak was or how long it was leaking prior to it being discovered and reported to the landlord. I find the tenants' submission that they were unaware of any problems until they removed toilet paper stored under the sink to be plausible.

I am also persuaded by the tenants' submissions that the amount of damage and the subsequent repairs and restoration that was required is not consistent with a bucket that was overturned and that it is likely that the leak itself is what caused the damage. I find there is no evidence before me that the tenants were aware of any problems with the plumbing in advance of when it was reported to the landlord.

As such, I find the landlord has failed to establish that the tenants have failed in their obligations under Section 32 of the *Act*. As a result, I dismiss the landlord's claim for compensation in the amount of \$3,619.98. As noted above, I find the landlord's claim for compensation for the vanity replacement relates to the leaking pipes and as a result I also dismiss this portion of the landlord's claim in the amount of \$633.76.

Section 37 of the *Act* states that when a tenant vacates a rental unit at the end of a tenancy the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear and give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

I accept the tenants agree that they owe the landlord compensation totalling \$112.81 for replacement of the garage door opener; 7 lightbulbs; and the light fixture shade.

In regard to the landlord's claim for drywall repair; painting; and the thermostat replacement, I find that there is no dispute that damage to the drywall and thermostat occurred during the tenancy. From the photographic evidence I am satisfied that drywall damage is significant and not reasonable wear and tear. I find the amount of the landlord's claim for this work is reasonable and I grant the landlord \$210.00.

In addition, I accept that the tenant's acknowledge they went to use the thermostat one day and it would not work about a month before the end of the tenancy and they did not report it to the landlord. However, I find the landlord has provided no evidence to confirm that the thermostat required replacement because of actions or neglect on the part of the tenants. I dismiss this portion of the landlord's claim in the amount of \$65.50.

In regard to the landlord's claim for cleaning, I am satisfied by the landlord's photographic; other documentary evidence and the testimony of both parties that the tenants failed to comply with their obligations under Section 37 to leave the unit reasonably clean. Based on the landlord's photographic evidence I am satisfied the landlord has establish that 6.5 hours of cleaning to be reasonable. I grant the landlord compensation in the amount of 227.50 for general cleaning.

As to the landlord's claim for carpet cleaning I refer to Residential Tenancy Policy Guideline #1 that states, in part, the tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year.

Despite the tenants' submissions that they had completely covered the carpets with their own carpeting I find this does not negate this obligation for a tenancy that lasted over 2 years in duration. I find it is reasonable to expect even covered carpets may be stained by something spilled on the carpet laid over top the landlord's carpets and that odours may linger in the landlord's carpets after the tenancy even when covered by the tenants' carpets during the tenancy.

As such, I find the tenants were responsible for cleaning the carpets at the end of the tenancy and the tenants have provided no evidence to establish they cleaned the carpets. As a result, I find the landlord should be compensated for the carpet cleaning in the amount of \$135.45 as claimed.

### Conclusion

Based on the above, I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$735.76** comprised of \$112.81 agreed upon items; \$210.00 drywall repair/painting; \$227.50 cleaning; \$135.45 carpet cleaning and \$50.00 of the \$100.00 fee paid by the landlord for this application as he was only partially successful.

I order the landlord may deduct the security deposit held in the amount of \$650.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$85.76**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: June 22, 2017

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Residential Tenancy Branch