



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding DPM Rental Management Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC MNSD MNR FF

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held by teleconference on November 1, 2018. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit and for damage or loss under the Act;
- authorization to retain all or a portion of the Tenant's security deposit in satisfaction of the monetary order requested pursuant to section 38;
- a monetary order for unpaid rent; and,
- to recover the cost of the filing fee.

Both parties attended the hearing and provided testimony. Both parties confirmed receipt of each other's documentary evidence.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Is the Landlord entitled to a monetary order for unpaid rent or utilities?
- Is the Landlord entitled to compensation for money owed or damage or loss under the Act?
- Is the Landlord entitled to keep the security deposit to offset the amounts owed by the Tenant?

### Background and Evidence

Both parties provided a substantial amount of conflicting testimony during the hearing. However, in my decision set out below, I will only address the facts and evidence which underpin my findings and will only summarize and speak to points which are essential in order to determine the issues identified above. Not all documentary evidence and testimony will be summarized and addressed in full, unless it is pertinent to my findings.

Both parties agree that monthly rent was \$1,710.00, and was due on the first of the month. A copy of the lease agreement was provided into evidence, which shows that the Tenant was in a fixed term 1 year lease ending on August 31, 2018. The Landlord holds a security deposit in the amount of \$825.00. The Tenant moved out of the rental unit on June 16, 2018, and a move-out inspection was done on June 18, 2018. The Tenant did not sign the condition inspection report because she did not agree with how the Landlord characterized the condition of the unit.

The Landlord provided a monetary order worksheet speaking to 3 different items as follows:

1. \$567.00 - LMS Building Services – Cleaning/repairs

The Landlord provided a copy of the invoice for cleaning services. The Landlord stated that the Tenant did not clean up properly at the end of the tenancy, and as a result, they had to hire a cleaning company. The invoice was for the following items: General cleaning, bedroom carpet stain removal, light bulb replacement, and cleaning in and around the appliances.

The Landlord provided a series of photos taken at the time of the move-out inspection on June 18, 2018. These photos show the areas of concern, and why they needed cleaning (stains, debris, hair, dust).

The Tenant stated that the unit was dirty when she moved in and she feels she left it in a better state than when she first arrived. The Tenant stated that the Landlord paid her \$100.00 to clean the unit after she moved in, in order to make it reasonably clean for the duration of her tenancy. The Landlord stated that he paid the Tenant to clean the property at the start of the tenancy, and he would have expected her to return the unit clean, since she was compensated to clean the unit at the beginning.

The Tenant acknowledges that she stained the carpet but stated that the Landlord is charging too much for the cleaning.

2. \$150.00 Strata Move-in Fee

The Landlord stated that they were charged \$150.00 by the strata for the Tenant to move in, but she never paid this. The Landlord provided a copy of their accounting ledger showing that \$150.00 was charged to the Tenant for this fee, and that the Tenant never paid it. The Landlord pointed to the Tenancy Agreement to show that the Tenant agreed to pay for all move-in and move-out fees from the strata.

The Tenant stated that she would be willing to pay for this item if she knew the Landlord actually got billed for this, but the Tenant pointed out that the Landlord has provided no proof that they got and paid for a move-in/out fee other than simply adding to her ledger.

3. \$228.00 – Rent

The Landlord is looking to be compensated for the period the rental unit sat empty. Since the tenant moved out on June 16, 2018, and the next tenants did not move in until June 20, 2018, the Landlord is looking to be paid for these 4 days at \$57 per day (monthly rent divided by 30). The Landlord stated that the Tenant paid rent for June of 2018, in the amount of \$1,710.00, and that she moved out on June 16, 2018. The Landlord stated that they successfully re-rented the rental unit on June 20, 2018, at a higher rent in the amount of \$2,050.00.

The Tenant stated that she paid the full month's rent for June 2018, and moved out half way through the month, so she should be entitled to get half of her rent back for June 16-June 30, 2018 because she did not live there.

### Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim.

I will address the items in the order they were addressed above:

1. \$567.00 - LMS Building Services – Cleaning/repairs

Residential Tenancy Policy Guideline #1 states the following:

*The tenant must maintain "reasonable health, cleanliness and sanitary standards" throughout the rental unit or site, and property or park. The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard.*

I note there were cleanliness issues at the start of the tenancy. However, I note the Tenant was compensated for this, and was paid to clean the unit by the Landlord. I find this issue was largely remedied, and it appears the condition of the rental unit was sufficiently addressed at the start of the tenancy, such that the unit was in a reasonable state of cleanliness at the start (after paid cleaning occurred). After reviewing the photos taken by the Landlord at the end of the tenancy, I find there were some significant debris, stains, and filth left by the Tenant. I find the state of the unit at the end of the tenancy does not comply with reasonable cleanliness and sanitary standards. As such, I find the Tenant is responsible for the above invoice, as it is largely related to cleaning.

Further, I note the Tenant acknowledged that she stained the carpet, and appeared to only take issue with the amount it cost the Landlord clean the stains. I have reviewed the landlord's expenses on this and the above items, and I note the carpet stain cleaning was included in the overall cleaning cost of \$567.00. I find the Landlord's invoice and price paid to clean the rental unit was reasonable.

In summary, I award the Landlord the full amount of this invoice, \$567.00.

2. \$150.00 Strata Move-in Fee

I note the tenancy agreement specifically states that the Tenant is responsible for the move-in and move-out fees charged by the strata. However, I find the Landlord has not sufficiently shown that they were charged by the strata for this. In the evidence before me, there is no invoice or letter from the strata to the Landlord for this amount, and I do not find the ledger from the Landlord is sufficient to show that they got billed for this item. I dismiss this portion of the Landlord's claim.

### 3. \$228.00 – Rent

I note the Tenant broke her lease early, when she left on June 16, 2018. I also note the Landlord was able to re-rent the unit as of June 20, 2018, at an increased rent (\$1,710.00 vs \$2,050.00).

I note the Landlord took steps to mitigate their loss, and was able to re-rent the unit swiftly. That being said, I find the Tenant is liable to pay for the days the rental unit sat empty from June 16-20, 2018, because she was in an active fixed term lease. I find the Landlord is entitled to the full amount of this item, \$228.00.

In summary, I find the Landlord is entitled to recover items #1 and #3 above, which amounts to \$795.00. However, I turn to Residential Policy Guideline #3 which states:

*In a fixed term tenancy, if a landlord is successful in re-renting the premises for a higher rent and as a result receives more rent over the remaining term than would otherwise have been received, the increased amount of rent is set off against any other amounts owing to the landlord for unpaid rent or damages*

The new tenancy agreement was for \$2,050.00 per month, which is \$68.33 per day in the new agreement, vs. \$57.00 per day under the Tenant's lease. This provided the Landlord with an additional \$113.30 in rent for June 2018 above and beyond what they otherwise would have got under the original lease. This also provided the Landlord with an additional \$340.00 in rent for July and \$340.00 for August, totalling \$793.30 in extra rent. In other words, when the Landlord re-rented the unit at a higher rent, they got an extra \$793.30 in rent than they otherwise would have (up until the end of the original fixed term, August 31, 2018).

As per the above portion of the Policy Guideline #3, I take the Landlord's successful claim for damages and rent, totalling \$795.00 and reduce it by the amount of extra rent they received, \$793.30, which I find leaves a balance owing in favour of the Landlord for \$1.50. Further, since the Tenant broke her lease, and only gave the Landlord 3 weeks' notice that she was leaving, I find the Landlord is entitled to keep the remainder of rent for the month of June 2018.

As the Landlord's application was mostly successful, and pursuant to section 72 of the Act I grant the Landlord the recovery of the cost of the filing fee in the amount of **\$100.00.**

I find the Landlord is entitled to \$100.00 for the filing fee, plus \$1.50 for the other items as laid out above.

**I authorize** the Landlord to retain \$101.50 from the Tenant's \$825.00 security deposit in full satisfaction of the above items, which I find leaves a security deposit balance of \$723.50, which must be returned to the Tenant.

Conclusion

The Tenant is granted a monetary order pursuant to Section 67 in the amount of **\$723.50**. This order must be served on the Landlords. If the Landlord fails to comply with this order the Tenant 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: November 2, 2018

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Residential Tenancy Branch