



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      Landlord: MNDC MNSD FF  
Tenant: MNSD FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference, on April 25, 2023.

The Landlords and the Tenant both attended the hearing and provided affirmed testimony.

The Tenant confirmed receipt of the Landlord's Notice of Dispute Resolution Proceeding and evidence packages, including the digital evidence files. The Tenant did not raise any service issues. I find the Landlords sufficiently served their documentation for this hearing.

With respect to the Tenant's Notice of Dispute Resolution Proceeding, the Landlord confirmed receipt of this package. However, the Landlord stated that the package they received only contained the Notice of Dispute Resolution Proceeding and had no evidence in it. The Tenant asserts it contained the evidence. However, the Tenant had no corroborative evidence showing what was in the package she sent. Without further proof of service, showing what was in the package, I find the Tenant has failed to sufficiently demonstrate that she served her evidence. As such, this evidence is not admissible and will not be considered further.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

*Tenant*

- Is the Tenant entitled to the return of double the security deposit held by the Landlords?

*Landlord*

- Are the Landlords entitled to compensation for damage or loss under the Act?
- Are the Landlords entitled to keep the security deposit to offset the amounts owed by the Tenants?

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:

- The tenancy began in March of 2021, and that it ended on May 31, 2022.
- The Landlords still hold \$950.00 as a security deposit
- The Tenant stated that she did not provide her forwarding address in writing to the Landlords, for the purposes of the return of the deposits
  - The Tenant asserts she sent an email asking for the deposit back, but did not give her forwarding address in writing.
  - The Landlords assert they never received anything from the Tenant in terms of a forwarding address
- The parties agree that no condition inspection report was completed at the end of the tenancy.

The Landlord is seeking the following items, as per their worksheet:

- 1) \$270.00 – Carpet cleaning

The Landlords stated that since the tenancy was over 1 year in duration, the Tenants were required to clean the carpets at the end of the tenancy. However, this was not done. The Landlords pointed to a phone call recording showing that the Tenant admitted to not cleaning the carpets. The Landlords stated that they obtained a quote from the carpet cleaners, and they estimated it would cost \$270.00 to clean the bedroom carpets, which is what the Landlords are seeking on this application.

The Landlords confirmed they did not pay this amount, and instead did the work themselves by borrowing a carpet cleaning from a friend, driving over there, and doing the work. The Landlords did not provide any sort of written breakdown but roughly estimated that it cost them about the same amount (\$270.00) to clean the carpets as it would have, after factoring in their time, gas, and cleaning supplies used.

The Tenant provided a vague and unclear explanation as to whether or not the carpets were cleaned before she moved out. The Tenant stated she hired a person to help clean, but they did not use a carpet cleaner, only a vacuum and other cleaning supplies.

## 2) \$126.00 – Window cleaning

The Landlord stated that they are seeking this amount because the Tenant failed to clean the exterior surface of the windows in a couple different rooms. The Landlord provided an estimate for this from a local company, but the Landlord did not hire a company, and instead did they work themselves, totalling about 6 hours labour.

The Tenant does not feel she should have to clean the outside of the windows.

## Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

Each application will be addressed separately. For each application, the burden of proof is on the person who made that application to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the other party. The Applicant must also provide evidence that can verify the value of the loss or damage. Finally it must be proven that the applicant did everything possible to minimize the damage or losses that were incurred.

First, I turn to the Tenant's application for the return of her deposit.

Section 38(1) of the *Act* requires a landlord to repay the security deposit or make an application for dispute resolution within 15 days after receipt of a tenant's forwarding address in writing or the end of the tenancy, whichever is later. When a landlord fails to do one of these two things, section 38(6) of the *Act* confirms the tenant is entitled to the return of double the security deposit.

In this case, I note the Tenant failed to sufficiently demonstrate that she gave her forwarding address in writing to the Landlords. I do not find it is sufficient to rely on serving the Notice of Dispute Resolution Proceeding to the Landlord as a means to give a forwarding address for the return of the deposits; it must be done separately, and clearly. Since the forwarding address was not properly provided from the Tenant to the Landlord, in writing, I find the Tenant is not entitled to the return of double the deposits. The remaining deposit held by the Landlord will be addressed further below.

Next, I turn to the Landlord's application.

1) \$270.00 – Carpet cleaning

As per Policy Guideline #1, Tenants are generally responsible for cleaning the carpets when a tenancy is one year or longer. In this case, I found the Landlord provided a more compelling explanation as to the fact that the carpets were never cleaned. The Tenant did not explain clearly whether or not the carpets were cleaned. I find it more likely than not that the carpets were not cleaned and since the tenancy was longer than 1 year, I find this should have been done by the Tenant.

That being said, I find the Landlords failed to sufficiently demonstrate the value of their loss. They appear to be relying on an estimate from a company to clean the carpets, when in reality, they cleaned the carpets themselves with borrowed equipment. I found their explanation as to costs unclear and poorly detailed. That being said, I accept that the carpets were not cleaned, and they should have been.

An arbitrator may also award compensation in situations where establishing the value of the damage or loss is not as straightforward:

“Nominal damages” are a minimal award. Nominal damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right.

In this case, I award a nominal award of \$150.00 for the carpet cleaning to compensate for some time spent by the Landlords.

2) \$126.00 – Window cleaning

I note this item was explained as being due to the dirty exterior surfaces of the windows, and the estimated costs to clean those dirty windows. As per Policy Guideline #1, the Landlord is responsible for cleaning the outside of the windows. I find this item is the responsibility of the Landlords, and I dismiss it in full, without leave.

Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Landlords were largely successful in this hearing, I award them the \$100.00 they paid to file this application and I decline to award the Tenants the amount they paid.

In summary, the Landlords are awarded \$150.00, as above, plus \$100.00 for the filing fee. The Landlords currently hold \$950.00 as a security deposit. I allow the Landlords to retain \$250.00 from the deposit and return the remaining balance to the Tenant. I will issue a monetary order to the Tenant for the remaining portion of the security deposit, \$700.00.

Conclusion

The Tenant is granted a monetary order pursuant to Section 38 and 67 in the amount of **\$700.00**. This order must be served on the Landlords. If the Landlords fail 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: April 25, 2023