



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      MND, MNDC, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The parties agreed that the tenancy began on July 1, 2010 and that the tenant vacated the rental unit on August 28, 2010. The parties further agreed that the tenant paid \$750.00 in security and pet deposits and that written condition inspection reports were not completed.

The landlord seeks to recover \$975.00 in lost income for the month of September. The landlord testified that the tenants gave notice on August 26 that they would be vacating the unit on August 28 and that as a result of having insufficient notice, the landlord was unable to re-rent the unit. The tenant entered into evidence a copy of her written notice to end tenancy and testified that she vacated the unit because the shower was mouldy and had not been adequately repaired over the two months of the tenancy. The notice to vacate also complained that the landlord had arrived at the unit unannounced and that the tenant felt her privacy had been violated.

The landlord seeks to recover \$420.00 as the anticipated cost of replacing carpet in the living room. The landlord testified that the carpet had been installed 6 months prior to the tenancy and that they were ruined from pet urine. The landlord stated that the carpet was cleaned but stains could not be removed and provided photographs showing blue stains in the carpet. The tenant testified that her dog may have urinated on the carpet but argued that she could not see any stains whatsoever in the photographs.

The landlord seeks to recover \$120.00 as the cost of cleaning the rental unit, \$80.00 as the cost of cleaning the carpet and \$60.00 as the cost of removing garbage and items left behind by the tenant. The landlord testified that the shower and refrigerator were not adequately cleaned and provided photographs showing the shower. The landlord testified that it took him 2 minutes to clean the shower and over an hour to clean the refrigerator. The landlord stated that it took the better part of a day to remove items left behind by the tenant and provided photographs showing items left outside the unit. The tenant acknowledged that she did not clean the shower during the tenancy but argued that she did not clean because the landlord did repair work which included removing one wall of the shower and the shower was mouldy when she moved into the unit. The tenant claimed that she steam cleaned the living room carpet at the end of the tenancy. The tenant testified that she suffers from mould allergies and could not clean because of the risk of aggravating her medical condition. The tenant acknowledged having left 2 boxes behind at the end of the tenancy and argued that it could not have taken a significant amount of time for the landlord to remove and dispose of those boxes.

The parties agreed that the landlord was entitled to recover \$58.86 in unpaid utilities for August.

The landlord seeks to recover \$120.00 as the cost of repairing and repainting the drywall in the entry hall area of the rental unit. The landlord testified that the unit had been completely repainted 6 months prior to the beginning of the tenancy. The tenant testified that she doesn't recall hitting the walls in the entry hall area and believes the damage may have been there when the tenancy began as there had been other tenants residing in the unit after renovations had taken place but prior to her tenancy.

The landlord seeks to recover the \$50.00 filing fee paid to bring his application and \$25.00 as the cost of sending documents via registered mail to the tenant.

### Analysis

Section 45 of the Act requires tenants who wish to end a tenancy to give one full month's notice. The only exception is found in section 45(3) in which tenants may give less than one full month's notice provided they have first given the landlord written notice of his failure to comply with a material term of the tenancy agreement and given him a reasonable period in which to correct the situation. There is no evidence before me that prior to the notice to vacate, the tenant gave the landlord written notice that he had failed to comply with a material term of the tenancy agreement. I find that the tenant did not give proper notice to end her tenancy and I find that as a result, the landlord was unable to re-rent the unit for the month of September. I award the landlord \$975.00.

The landlord's photographs clearly show blue stains on the carpet. Although the tenant claimed she could not see these stains, she did not claim that the stains were there at the outset of the tenancy. I find it more likely than not that the stains occurred during the tenancy. However, I am unable to find that the carpet must be replaced. The value of the carpet has certainly diminished, but it is clear it can still be used as the landlord testified that there are currently tenants living in the unit and using the carpet. I find that \$100.00 will adequately compensate the landlord for the diminished value of the carpet and I award him that sum.

The landlord also claimed \$80.00 for the cost of cleaning the carpet and \$120.00 for cleaning the rental unit and testified that he performed the work himself. I find it reasonable that the landlord cleaned the carpet several times in an effort to remove the stains but I find the \$80.00 charge to be excessively high as he did not utilize a professional service. I find that \$35.00 will adequately compensate the landlord and I award him that sum. The tenant's photographs show that the rental unit was reasonably clean, although she acknowledged that she did not clean the shower and may have overlooked the refrigerator. The landlord admitted that it took just 2 minutes to clean the shower and provided no photographs of the refrigerator at all, rendering it impossible to determine how much cleaning was required. I find that a \$120.00 charge is unreasonably high. I find that \$20.00 will adequately compensate the landlord and I award him that sum.

I find that the photographs prove that the tenant left more than just 2 boxes outside the rental unit. However, I find it unlikely that it would have taken more than one truckload to remove the items and I find the landlord's claim to be unreasonably high. I find that \$25.00 will adequately compensate the landlord and I award him that sum.

As the parties agreed that the landlord was entitled to \$58.86 for unpaid utilities, I award him \$58.86.

As the tenant claimed that the damage to the entry hall was present at the start of the tenancy and as there is no condition inspection report showing that the walls were in good condition at that time, I find that the landlord has failed to prove that the tenant caused the damage and I dismiss the claim.

I dismiss the claim for the cost of registered mail as under the Act, the only litigation related expense I am empowered to award is the cost of the filing fee. I find that the landlord is entitled to recover the filing fee and I award him \$50.00.

Conclusion

In summary, the landlord has been successful in the following claims.

September loss of income	\$ 975.00
Diminished value of carpet	\$ 100.00
Carpet cleaning	\$ 35.00
Cleaning	\$ 20.00
Garbage removal	\$ 25.00
Unpaid utilities	\$ 58.86
Filing fee	\$ 50.00
<b>Total:</b>	<b>\$1,263.86</b>

I order the landlord to retain the \$750.00 pet and security deposits in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance of \$513.86.

Dated: January 17, 2011

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Dispute Resolution Officer