



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      MNR MND FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain a Monetary Order for unpaid rent or utilities, for damage to the unit, site or property, and to recover the filing fee from the Tenant for this application.

Service of the hearing documents, by the Landlord to the Tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on February 8, 2011. Mail receipt numbers were provided in the Landlord's evidence. The Tenant is deemed to be served the hearing documents on February 13, 2011, the fifth day after they were mailed as per section 90(a) of the *Act*.

The Landlord appeared, gave affirmed testimony, was provided the opportunity to present their evidence orally, in writing, and in documentary form. No one appeared on behalf of the Tenant despite her being served notice of today's hearing in accordance with the *Act*.

### Issue(s) to be Decided

1. Has the Tenant breached the *Residential Tenancy Act*, regulation or tenancy agreement?
2. If so, has the Landlord met the burden of proof to obtain a Monetary Order as a result of that breach?

### Background and Evidence

The parties entered into a month to month tenancy agreement effective June 15, 2007. Rent was payable on the first of each month based on a subsidized amount. The rent had increased from \$296.00 to \$320.00 per month effective July 1, 2010. A move-in inspection was completed June 15, 2007 and signed by both parties. The move-out inspection was completed August 30, 2010 and the Tenant signed the inspection form agreeing to the noted condition of the rental unit. The Tenant provided her forwarding

address on the move-out inspection form on August 30, 2010. The unit was re-rented as of September 27, 2010.

The Landlord testified that the Tenant was an excessively heavy smoker which caused the unit to require extra cleaning. This unit was completely renovated in 2007, prior to this tenancy, when new carpet and tile were installed and the entire unit was painted, as indicated on the move-in inspection report. The Landlord provided photos of the unit taken August 31, 2010 which display the amount of nicotine on the walls, carpet, and light fixtures. The photos also display the debris that was left behind by the Tenant and which had to be removed by the Landlord. The Landlord is seeking \$1,666.48 for the following:

- \$600.00 for the extra cleaning which involved washing all walls, ceilings, windows, window coverings, all appliances and fixtures for a total of 34 hours. The Landlord is claiming for only 30 hours at \$20.00 per hour as supported by the time sheet provided in evidence.
- \$228.48 for carpet cleaning. The Landlord advised this unit required three separate carpet cleanings in order to remove the nicotine smells and stains. The Landlord covers the cost of the first carpet cleaning so they are seeking the costs for the additional two cleanings as supported by the invoices they provided in their evidence.
- \$784.00 for painting the entire unit. The Landlord bases this claim on the useful life of painting to be five years, therefore they only charged the Tenant 1/5 of the normal charges for painting the unit plus \$68.00 for removed of nicotine stained caulking, plus taxes. The total bill to repaint this unit was \$3,800.16 which the Landlord accepts the cost of 4/5 of the normal charges.
- \$30.00 for the cost to remove the debris left in the unit by the Tenant. The photos support the Landlord's claim that the Tenant left items to be disposed of such as food in the fridge, various pieces of old furniture and articles left inside a closet.
- \$24.00 for unpaid rent for August 1, 2010. The Tenant's subsidy changed effective July 1, 2010 when her rent was increased from \$296.00 to \$320.00 per month. The Tenant paid only \$296.00 for August which left the outstanding balance due of \$24.00.

### Analysis

I have carefully considered the testimony and evidence before me which included, among other things, a copy of the move-in and move-out inspection report forms, a

copy of the tenancy agreement, copies of invoices for work performed on the unit after the tenancy ended, and photographs of the unit which were taken August 31, 2010.

Section 7(1) of the Act provides that if a landlord or tenant does not comply with this Act, the Regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for the damage or loss which results. That being said, section 7(2) also requires that the party making the claim for compensation for damage or loss which results from the other's non-compliance, must do whatever is reasonable to minimize the damage or loss.

The party applying for compensation has the burden to prove their claim and in order to prove their claim the applicant must provide sufficient evidence to establish the following:

1. That the Respondent violated the Act, Regulation, or tenancy agreement; and
2. The violation resulted in damage or loss to the Applicant; and
3. Verification of the actual amount required to compensate for loss or to rectify the damage; and
4. The Applicant did whatever was reasonable to minimize the damage or loss

Section 32 (2) of the Act provides that a tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. Section 32(3) of the Act states a tenant of a rental unit 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 residential property by the tenant.

Section 37 (2) of the Act provides that when a tenant vacates a rental unit, the tenant must (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and (b) 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.

The evidence supports the Tenant did not comply with the Act as she left the unit in an unclean state requiring several hours of maintenance and repair before the Landlord could re-rent the unit. The Tenant signed the move-out inspection report, which clearly indicates the unit requires cleaning in for every item, acknowledging the condition of the unit at the end of the tenancy.

After careful review of the Landlord's claim, as listed above, I find the amounts to be reasonable considering the amount of cleaning required and the normal useful life of

interior painting. Therefore I approve the Landlord's request for a Monetary Order in the amount of **\$1,666.48**.

The Landlord has been successful with their application; therefore I award recovery of the **\$50.00** filing fee.

Conclusion

The Landlord's decision will be accompanied by a Monetary Order for **\$1,716.48** (\$1,666.48 + \$50.00). This order must be served on the Tenant and may be filed in Provincial 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: February 22, 2011.

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Residential Tenancy Branch