



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNSD, MNDC, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order for damages, to keep all or part of the security deposit, money owed or compensation for damage or loss and recovery of the filing fee. Both parties participated in the conference call hearing and gave affirmed testimony.

### Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

### Background and Evidence

This tenancy began August 1, 2010 with monthly rent of \$625.00, the tenant paid a security deposit of \$312.50 and a pet damage deposit of \$312.50.

At the start of the hearing the landlord testified that he was not in receipt of the tenant's evidence package. After the matter was discussed it was determined that the tenant could provide the same evidence through her testimony and the hearing proceeded.

The landlord testified that during the move-out inspection that was conducted with the tenant present, damage was noted in the rental unit as well as numerous areas in the rental unit that had not been thoroughly cleaned.

The tenant testified that she was in agreement with some, but not all of the landlord's claim. The tenant admitted that she did not clean the stove, needed to replace 1 blind, her dog had damaged a corner of baseboard moulding, there was wall damage in the bedroom, some light bulbs needed to be replaced and there was trash left in the entrance way that had to be removed by the landlord.

The landlord submitted into evidence, a copy of the move-out condition inspection report that has been signed by the tenant agreeing to the condition of the rental unit. This document is also signed by the tenant under 'Security Deposit Statement' where

the landlord lists costs for repairs and the tenant has agreed to these costs and agreed to the landlord deducting these costs from the security and pet damage deposit.

The tenant was adamant that the 'Security Deposit Statement' portion was not filled out prior to her leaving on the day of the move-out inspection and that her signature had been forged. The tenant maintains that she would have never agreed too many of the costs listed by the landlord as it was not damage caused by her and she should not be held responsible.

The landlord has claimed the following expenses on the move-out condition report:

Late fees	\$50.00
Blind replacement	\$50.00
Other cleaning	\$395.00
Pet damage – doors, trim, floor	\$200.00
Painting	\$205.00
Carpet	\$400.00
Trash removal	\$15.00
<b>Total claim</b>	<b>\$1360.00</b>

The landlord has also submitted into evidence, a document outlining cost for repairs to the rental unit and these costs total \$903.60.

#### Stove and Fridge

The tenant agreed to the cost for cleaning the stove but maintained that the fridge had been cleaned by her and her friends. The landlord stated that the fridge still had bits of food stuck on the shelves and the tenant did not clean behind the fridge.

#### Closets

The tenant agreed to the \$25.00 cost for cleaning the closets but stated that she did not break the kitchen drawer and had not used it during her tenancy as it was broken when she moved in. The landlord maintains that the kitchen cabinet was broken by the tenant and referred to the photographic evidence.

#### Floors

The tenant stated that she had mopped and washed the floors however the landlord stated that the kitchen floor was so dirty that it had to be scrubbed by hand. The tenant maintained that the floor was not damaged by her and that the tiles lifted after the apartment was flooded 3 times.

#### Walls

The landlord testified that the entrance way wall was damaged when the tenant slipped and put her foot through it. The landlord also stated that as the walls were all dirty they had to be washed down. The tenant stated that the walls were clean and that there would have never been any damage to the entrance way wall if the wall had not been

full of mould and dry rot and the hole the landlord was referring to was behind a mirror. The landlord responded by stating that the wall had not been full of mould and dry rot.

#### Bathroom

The landlord testified that the bathroom tile had been damaged by the tenant with some of the tiles loose and some damaged. The tenant stated that tiles in the bathroom came loose after the bathroom had flooded 3 times and that the sticky grips were already in the tub at the start of the tenancy.

#### Blinds

The tenant stated that she had replaced all blinds but one and was fine with the cost to replace the missing blind. The tenant stated that she was not okay with the cost for installing a blind as the landlord had told her he would do it and never told her he would charge her for the installation. The landlord agreed that he had not been specific with the tenant when discussing installation of the blind and did not tell her there would be a cost.

#### Carpet

The landlord testified that he had dried the carpet with an industrial drier and had the carpet cleaned but it was badly stained from the tenant's pet and that was why it had to be thrown out. The tenant stated that there is no way she should be held responsible for the cost of the carpet as the landlord had pulled it up after the rental unit had flooded and just left it in the rental unit. The tenant stated that the landlord had told her to turn up the heat and close the door to dry the carpet out.

#### Windows

The landlord stated that the tenant had not left the windows clean and the tenant asked the landlord why there was a cost for window cleaning when all of the blinds were new.

#### Patio (Entrance Way)

The tenant stated that the landlord told her he would take care of removing the trash left by the front entrance but that he never told her he would charge her for the removal. The tenant agreed to the cost for the landfill but not the landlord's labour cost. The landlord agreed that he had not been specific with the tenant when discussing removal of the trash and did not tell her there would be a cost.

#### Light

The tenant stated that ½ of the light bulbs were missing or burned out at the start of the tenancy but acknowledged that she vacated the rental unit with a number of lights needing replacement and agreed to this cost.

#### Painting

The landlord stated that there were pinholes on the walls, damage on the bedroom wall from the tenant's bed and the living room and kitchen walls had dings on them. The landlord stated that because of the wall damage he had to paint the entire apartment but was only charging the tenant for the cost to paint the bedroom, living room and kitchen.

The tenant stated that the only wall with damage caused by her was the bedroom wall. The tenant stated that she never put any pictures up on the walls and the pin-hole damage was not caused by her.

#### Garbage

The tenant agreed to the cost of the landfill charge for removal of the trash but not the landlord's labour charge.

#### Repairs

The landlord stated that the tenants dog had chewed a corner of baseboard moulding, the front door casing, the bedroom window casing was damaged and a strip of moulding had been pulled off the wall. The tenant agreed that her dog had chewed the corner baseboard moulding but that the strip of moulding on the wall had buckled after being wet from the floods in the rental unit. The tenant stated that she did not cause any of the other damage the landlord refers to.

#### Late Fees

The landlord stated that the rent paid directly by the ministry was late twice and the tenant owes the landlord \$50.00 in late fees. The landlord stated that he had contacted the ministry who advised him to have the tenant contact them directly about the issue. The tenant maintained that the landlord did not talk to her about going to the ministry and that the landlord knew the ministry was responsible for the rent and therefore the late fees.

#### Loss of Income

The landlord in this application is claiming ½ month's rent to cover the time it took to complete repairs and the rental unit remained vacant. The tenant maintained that the landlord was taking this time and making this claim to complete all the repairs he didn't completed during the tenancy after the floods.

#### Cleaning Supplies

The landlord is making a claim of \$50.00 for the cost of cleaning supplies.

The landlord in this claim is seeking \$1666.73 in compensation for the following:

Stove cleaning	\$54.86
Fridge cleaning	\$25.00
Wash closets and repair kitchen cupboard	\$57.65
Floors: wash and repair laminate	\$483.17
Walls: wash and repair drywall	\$105.00
Bathroom: cleaning, tiles in floor missing	\$75.00
Drapes: replace 1 blind, wash 1 blind	\$50.00
Carpets: removed and hauled to dump	\$35.00
Windows: 3 not cleaned	\$15.00
Patio/Deck not cleaned	\$10.00

Lights: dirty, missing light bulbs	\$25.00
Painting	\$207.86
Trash removal	\$22.50
Door casing repair	\$88.19
Late fees: 2 @ 25.00	\$50.00
Cleaning supplies	\$50.00
½ month loss of rental income	\$312.50
<b>Total claim</b>	<b>\$1666.73</b>

The tenant concluded the hearing by stating that she would be responsible for the items she agreed to but that the rest of the items in the landlord's claim are not damage caused by the tenant. The tenant also stated that the warning letters and other documents addressed to the tenant in the landlord's evidence package were never given to her at any time during the tenancy.

The landlord stated that he was being upfront with all for the cost he incurred and that the tenant needed to take more responsibility for the condition the rental unit was left in. The landlord stated that the damage noted was damage done to the suite while the tenant occupied it.

### Analysis

Based on the documentary evidence and testimony of the parties I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds for entitlement to a monetary order for damages, loss and cleaning costs. It must be noted however that the parties testimony conflicts on much of the landlord's claim, the move-out condition inspection report does not note all damage and cleaning being claimed by the landlord and this report while signed by both parties is in dispute.

I am not satisfied that some of the damages being claimed by the landlord were in fact caused by the tenant's negligence during the tenancy. The rental unit suffered damage as a result of 3 floods and much of the damage that incurred because of these floods was never repaired during the tenancy. It is reasonable to determine that the water soaked carpet that the landlord pulled up and left in the rental unit for months was no longer in useable condition. It is also reasonable to determine that the warped baseboard moulding and loose, damaged tile and laminate floors were also a result of 3 floods in the rental unit.

The move-out condition inspection report does not indicate areas that required additional cleaning such as the kitchen, bathroom, walls and closet doors. This report also does not adequately note the damage to the living and kitchen walls and distinguish damage versus normal wear and tear. And while the landlord did suffer a loss of rental income, many of the repairs required were repairs not completed by the landlord during the tenancy after the rental unit flooded.

The landlord stated that he had contacted the ministry regarding the two late fees and the ministry in turn advised the landlord that as they were responsible for the tenant's rent, the landlord needed to have the tenant contact the ministry regarding the late fees. While the ministry directly pays the tenants rent, it is the tenant who is ultimately the one responsible to ensure the rent is paid on time, therefore I find that the landlord is entitled to recovery of the late fees.

Therefore based on the evidence and testimony of the parties I find that the landlord is entitled to compensation in the limited amount of \$500.29.

Stove cleaning	\$30.00
Fridge cleaning	\$0.00
Wash closets and repair kitchen cupboard	\$0.00
Floors: wash and repair laminate	\$0.00
Walls: wash and repair drywall	\$50.00
Bathroom: cleaning, tiles in floor missing	\$0.00
Drapes: replace 1 blind, wash 1 blind	\$50.00
Carpets: removed and hauled to dump	\$0.00
Windows: 3 not cleaned	\$0.00
Patio/Deck not cleaned	\$0.00
Lights: dirty, missing light bulbs	\$25.00
Painting	\$70.00
Trash removal	\$22.50
Door casing repair	\$22.04
Late fees: 2 @ 25.00	\$50.00
Cleaning supplies	\$25.00
½ month loss of rental income	\$156.25
<b>Total claim</b>	<b>\$500.29</b>

As the landlord has had some success in their application they are entitled to recovery of the \$50.00 filing fee.

### Conclusion

I find that the landlord has established a monetary claim for \$500.29 in damages, loss and cleaning costs. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep the tenant's \$312.50 security deposit and \$237.79 of the pet damage deposit in full satisfaction of the claim. The balance of \$74.71 is to be returned to the tenant within 15 days receipt of this decision.

I grant the tenant a monetary order under section 67 for the balance of **\$74.71**.

If the amount is not paid by the landlord, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: September 1, 2011.

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Residential Tenancy Branch