



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPC, MND, MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord and a one of the tenant's Committee.

The hearing was originally convened on September 26, 2011 but was adjourned to allow both tenants to be served with notice of this hearing. Notices of the reconvened hearing were sent to all parties directly from the Residential Tenancy Branch. As such, I find all parties were sufficiently served with notice of this hearing.

At the original hearing the parties confirmed the tenants had vacated the rental unit sometime between August 14, 2011 and August 31, 2011. As such the landlord no longer requires an order of possession. I amend the landlord's Application to exclude any matters related to possession.

The tenant's Committee submits that because the tenant or his case manager did not sign the tenancy agreement the tenant he represents should not be held responsible for any damage related to the tenancy because he had no capacity to enter into a tenancy agreement.

The Committee confirmed that rent was paid on the tenant's behalf by the Committee and the landlord testified he received this tenant's portion of the security deposit from the Committee. I accept that the tenant himself does not have the capacity to enter into a tenancy agreement.

However, despite not signing the tenancy agreement on the tenant's behalf, I find that once the Committee provided the landlord with rent monies and a security deposit the Committee accepted the terms of the tenancy as outlined in the tenancy agreement they had been provided by the landlord. I therefore find the tenant represented at this hearing by his Committee is a party to this tenancy and this dispute.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for damages and losses; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord submitted a copy of a tenancy agreement signed by the landlord and one of the tenants on December 16, 2011 for an 8 month fixed term tenancy beginning on January 1, 2011 for a monthly rent of \$1,250.00 due on the 1<sup>st</sup> of each month with a security deposit of \$625.00 and a pet damage deposit of \$625.00 paid. The agreement included a clause the tenants must ensure the oil tank was filled at the end of the tenancy. The tenancy ended on or before August 31, 2011.

The landlord seeks the following compensation:

Description	Amount
Carpet cleaning	\$232.90
Dump Run/ Junk Removal	\$193.50
Installation of windows, doors, trim, painting	\$921.58
Supplies – doors, windows, trim, vent cover	\$688.09
Cleaning	\$400.00
Paint Supplies	\$79.50
Refill of Oil Tank	\$846.13
Oil Furnace Repair	\$112.00
Repair of Hydro Mounting bracket torn off of the rental unit	\$1,123.92
<b>Total</b>	<b>\$4,597.62</b>

The landlord provided photographs taken on August 14, 2011 of the condition of the rental unit at that time and while the tenants vacated the rental unit the landlord testified the condition was not changed when the tenants vacated.

The landlord also testified that after he had issued the tenants a two notices to end tenancy the tenants broke two windows, two doors, and a Hydro Mounting bracket that supplies hydro to the rental unit, and put fists and feet through the walls in several locations that he discovered when he attended the rental unit on August 14, 2011. He testified these were not damaged on his previous visit of August 2, 2011.

While the tenant's Committee had never attended the rental unit, he could not provide any testimony as to the condition of the rental unit, however he did assert the landlord had provided no documented evidence of the condition of the rental unit at the start of the tenancy.

The landlord provided receipts for all items listed in the above table except for the supplies – doors, windows, trim, and vent cover and for \$350.00 of cleaning. The

Committee also questioned the validity of some of the receipts, in particular the invoice the landlord relies upon for the installation of windows, doors, trim and painting.

The landlord testified that many service providers, to keep their costs down, do not use traditional methods of invoicing and billing.

### Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 37 of the *Act* requires tenants who are vacating a rental property to leave the rental unit reasonably clean and undamaged except for reasonable wear and tear.

I accept, based on the landlord's undisputed testimony and photographic evidence that the tenants failed to comply with Section 37 of the *Act* and as a result the landlord has suffered a loss.

I accept the landlord has established the value of that loss by submitting receipts and/or invoices for the work with the exception of the supplies – doors, windows, trim, and vent cover in the amount of \$688.09 and for \$350.00 of cleaning.

While I accept the landlord's assertion that service providers do not use traditional methods of billing, I also accept the Committee's position that the invoice for the installation work does not identify anyone as the service provider. However, I find the amount as outlined in this invoice and requested by the landlord in compensation is a reasonable value for this work.

### Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$3,609.53** comprised of the items listed in the table above and the \$50.00 fee paid by the landlord for this application less \$350.00 cleaning and \$688.09 supplies.

I order the landlord may deduct the security deposit and interest held in the amount of \$1,250.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$2,359.53**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord 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 03, 2011.

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Residential Tenancy Branch