



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

Landlords: MND, MNR, MNSD, MNDC, O, FF  
Tenants: MNSD, OLC, O, FF

### **Introduction**

This hearing dealt with cross Applications for Dispute Resolution. The landlord sought a monetary order and the tenants sought a monetary order and an order to have the landlord comply with the *Residential Tenancy Act (Act)*, regulation or tenancy agreement.

The hearing was conducted via teleconference and was attended by the landlord and the tenants.

### **Issue(s) to be Decided**

The issues to be decided are whether the landlords are entitled to a monetary order for unpaid rent; for damage to the rental unit; 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 *Act*.

It must also be decided if the tenants are entitled to a monetary order for unpaid rent; for double the amount of the security deposit and to recover the filing fee from the landlords for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act*.

### **Background and Evidence**

The parties agree the tenancy began on June 1, 2011 as a month to month tenancy for the monthly rent of \$950.00 due on the 1<sup>st</sup> of each month with a security deposit of \$475.00 paid. The landlord testified that a Condition Inspection Report was not completed at either the start or the end of the tenancy.

The landlord testified the tenants provided her with verbal notice on September 1, 2011 that they would be vacating the rental unit on September 15, 2011. The tenants testified they gave the landlord their verbal notice on August 28, 2011. Both parties agreed the tenants paid the landlord ½ month's rent for September 2011.

The tenants testified that the landlord insisted they pay additional monies each month for rent because they had an additional occupant. The tenants testified they paid the

landlord \$1,000.00 for August 2011 and that they paid the landlord \$475.00 rent plus \$75.00 for the additional occupant for September 2011 for a total of \$550.00.

The landlord testified the tenants paid only \$950.00 for August 2011 rent but that they provided her with \$475.00 rent and \$100.00 for the additional occupant for September 2011, for a total of \$575.00.

The landlord provided into evidence a copy of a tenancy agreement that stipulates, in a handwritten addendum, that if a relative wants to live with the tenants the rent will go up. There is no specific clause in the tenancy agreement with regard to carpet cleaning.

The landlord seeks the following compensation:

Description	Amount
Rent – ½ September 2011	\$475.00
Cleaning windows and cupboards	\$100.00
Carpet cleaning (shampoo)	\$103.00
Kitchen Door repairs	\$112.80
<b>Total</b>	<b>\$790.80</b>

### Analysis

Section 38(1) of the *Act* stipulates that a landlord must, within 15 days of the end of the tenancy and receipt of the tenant's forwarding address, either return the security deposit or file an Application for Dispute Resolution to claim against the security deposit. I accept the landlord filed her Application within 15 days of the end of the tenancy.

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 45 of the *Act* states a tenant may end a tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

While the tenants testified they gave the landlord notice on August 28, 2011 and the landlord testified they gave verbal notice on September 1, 2011, it is next to impossible for a third party to determine which date the verbal notice was given to the landlord. As

such, it is incumbent upon the party claiming the loss (in this case of rent due claimed by the landlord) to provide sufficient evidence of their claim. Therefore in the absence of any documentary evidence to support the landlord's claim the tenant's provided notice on September 1, 2011 I accept the tenant's testimony that they provided notice on August 28, 2011.

As such, the earliest the tenancy could have ended would have been September 30, 2011. I therefore find the landlord is entitled to rent for the full month of September 2011 in the amount of \$950.00 less the amount of rent paid of \$475.00 for a total of \$475.00.

As to the landlord's entitlement to additional rent for additional occupants, Section 13(f)(iv) of the *Act* stipulates that the tenancy agreement must include the amount of rent payable for a specified period, and, if the rent varies with the number of occupants, the amount by which it varies.

I note that the addendum to the tenancy agreement submitted by the landlord does not specify the amount by which the rent will vary if additional occupants live in the unit as such, I find the landlord is not entitled to additional monies for additional occupants.

As the tenants have provided no evidence at all of any amounts paid to the landlord over the course of the tenancy, I accept the landlord received \$100.00 in total for additional occupants and as such I deduct this amount from the amount of rent owed to the landlord for September 2011 leaving a balance owed by the tenants of \$375.00.

As to the landlords' claim for damage to the kitchen door, I find since the landlord did not complete a move in condition inspection report and she has provided no other evidence of the condition of the rental unit at the start of the tenancy, specifically the kitchen door, the landlord has failed to establish that she has suffered a loss that results from this tenancy. I dismiss this portion of the landlord's Application.

Residential Tenancy Policy Guideline #1 states that "generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of the tenancy."

However, if a tenancy agreement specifies that the tenant must professionally clean or steam clean or shampoo the carpets regardless of duration a tenant can be held responsible for this cleaning. In this case, as noted above the tenancy agreement has no such clause. For these reasons, I find the tenants are not responsible for cleaning the carpets and I dismiss this portion of the landlord's Application.

Finally to the landlord's claim for cleaning the rental unit, I find the landlord has failed to establish, by failure to provide a move out Condition Inspection Report, that the rental unit required any cleaning. Further the landlord failed to provide any evidence as to

how she established the value of this cleaning. For these reasons, I dismiss this portion of the landlord's Application.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$375.00** comprised of \$375.00 rent owed.

I order the landlord deduct this amount from the security deposit held in the amount of \$475.00 in satisfaction of this claim, leaving a balance of \$100.00 to be returned to the tenants. I grant a monetary order to the tenants in the amount of **\$100.00**.

This order must be served on the landlord. If the landlord fails 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.

As both parties were partially successful I grant each their filing fee, as such, these amounts of \$50.00 to the landlord and \$50.00 to the tenant cancel each other out.

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: December 08, 2011.

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Residential Tenancy Branch