



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNSD, MNDC, FF

### Introduction

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

### Issue(s) to be Decided

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

### Background and Evidence

This fixed term tenancy began January 14, 2011 with monthly rent of \$975.00 and the tenant paid a security deposit of \$487.50 and a pet damage deposit of \$100.00.

The landlord testified that the end date of the fixed term tenancy was March 31, 2012 but that the tenant gave the landlord notice on September 30, 2011 and vacated the rental unit on October 31, 2011. The landlord stated that when the tenant vacated the rental unit the carpets had not been cleaned, there was damage to the walls in the living room and bedroom and the suite had not been thoroughly cleaned. The landlord stated that the tenancy agreement also contains a \$300.00 liquidated damages clause if the fixed term tenancy is ended early.

The tenant testified that the rental unit had been thoroughly cleaned prior to the rental unit being vacated, there was pre-existing damage to the walls and that the landlord had advised the tenant to not clean the carpets as they would be completing work on the rental unit. The tenant stated that the stains on the carpet were from the hot water tank was replaced and removed from the rental unit. The tenant stated that she had photographic evidence of the condition of the rental unit at the end of the tenancy however this evidence has not been submitted to the file.

The tenant stated that she had not agreed with the move out condition inspection report that completed with both parties present and signed by both parties.

The landlord in this application is seeking \$1858.00 compensation for the following:

Suite Cleaning	\$90.00
Painting/Wall Repair	\$325.00
Liquidated Damages	\$300.00
November Loss of Rent	\$975.00
	\$1858.00

### 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 cleaning costs and liquidated damages.

The move in condition inspection report notes 'carpet stains', 'frayed carpet' and that the 'walls had dents', the move out condition inspection report notes 'carpets still stained need fixing', 'floors to be changed'. The move out condition inspection report also notes that the stove needs cleaning and the drapes need to be cleaned.

Based on the move in and move out condition reports submitted into evidence by the landlord, consideration must be given to the tenant's testimony regarding pre-existing damage in the rental unit and the tenant being advised to not clean the carpets as the landlord would be working in the rental unit. When taking the evidence and testimony of the parties into account I am not satisfied that the landlord did not intend to complete renovations in the rental unit which resulted in the rental unit not being available to rent November 1, 2011 or that the tenant had in fact been told to not clean the carpets.

I therefore find that the landlord is entitled to compensation in the limited amounts:

	Claim	Award
Carpet Cleaning	\$168.00	\$0.00
Painting/Wall Repair	\$325.00	\$0.00
Liquidated Damages	\$300.00	\$300.00
November Loss of Rent	\$975.00	\$0.00
<b>Total</b>	<b>\$1858.00</b>	<b>\$345.00</b>

The landlord's claims for carpet cleaning, painting/wall repair and loss of rent for November 2011 are hereby dismissed without leave to reapply.

Accordingly I find that the landlord is entitled to a monetary order for \$345.00.

As the landlord has had some success in their application they are entitled to recover \$25.00 of the \$50.00 filing fee.

The landlord holds a security deposit of \$487.50 which will result in a balance of \$117.50 that is to be returned to the tenant.

### Conclusion

I find that the landlord has established a monetary claim for \$345.00 in cleaning costs and liquidated damages. The landlord is also entitled to recover \$25.00 of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep \$370.00 of the tenant's \$377.50 security deposit in full satisfaction of the claim.

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 2, 2012

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Residential Tenancy Branch