



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPL, MND, MND, MNDC, FF

### Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for Landlord's Use of Property; a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and for damage to the rental unit; and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. She testified that she served the Notice of a Dispute Resolution Hearing to the tenants by way of registered mail sent on February 20, 2012, and provided a Canada Post tracking number. The tenants did not participate and the hearing proceeded in the tenants' absence.

At the outset, the landlord stated that the tenants moved out of the rental unit on February 1<sup>st</sup>, 2012. Therefore the landlord's application for an Order of Possession is dismissed.

### Issue(s) to be Decided

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of a townhouse. Pursuant to a written agreement, the tenancy with the landlord started in December 2007. The rent was \$1600 per month and the tenants paid a security deposit of \$800.00.

The landlord testified that she served a 2 Month Notice to End Tenancy effective February 29, 2012. She stated that the parties however came to an agreement whereby the tenancy would end January 31, 2012, and the free month's rent would be applied for that month.

The landlord stated that the tenants did not clean the unit and that it required extensive cleaning due to heavy staining. She said that she first hired Molly Maid; that they informed her that they could not deal with the extent of work required; and that she had to hire industrial-level cleaning services.

In her documentary evidence, the landlord provided 41 photographs in support of her claim, showing extensive soiling in several rooms, a hole in one of the walls, and several personal items and garbage bags left behind. The landlord said that the tenants did not leave until 10PM on February 1, 2012, and that the tenant stated that she did not mind being charged per diem for an additional two days.

The landlord submitted a monetary claim with receipts as follows:

- Sears cleaning: \$ 601.44
- Molly Maid cleaning: \$ 384.00
- Additional Cleaning: \$ 400.00
- U-haul rental: \$ 30.00
- 2 days overstay: \$ 106.66
- Total: \$1522.10

The landlord also claimed for the cost of mailing and the photographs. I informed the landlord that other than the filing fee, there is no provision for a party to make a claim under the Act for litigation costs or costs related to an application for dispute resolution; therefore I dismiss this aspect of the landlord's claim.

### Analysis

I accept the landlord's undisputed testimony that she served the tenants with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the tenants knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 37 of the *Residential Tenancy Act* provides in part that upon vacating a rental unit, the tenant must leave the unit reasonably clean and undamaged, except for reasonable wear and tear. Based on the evidence I find that the tenants were not compliant with this provision; the rental unit was not cleaned and based on the landlord's submissions, I find that the landlord is entitled to recover the costs of cleaning as claimed.

### Conclusion

The landlord established a claim of \$1522.10. I authorize the landlord to retain the tenants' \$800.00 security deposit for a balance owing of \$722.10. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a Monetary Order totalling \$772.10.

This Order may be registered in the Small Claims 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: March 06, 2012.

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Residential Tenancy Branch