



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNSD, MNDC

### Introduction

This conference call hearing was convened in response to the landlord's application for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for unpaid rent or utilities, and damage to the rental unit; to keep the security deposit; and to recover the filing fee associated with this application.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

### 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?

### Background and Evidence

The rental unit consists of a basement suite. Pursuant to a written agreement, the month to month tenancy started on December 1, 2011. The rent was \$750.00 per month and the tenant paid a security deposit of \$375.00. Condition inspection reports were not completed at the start and the end of the tenancy.

The landlord testified that the tenant owes \$356.00 in unpaid utilities. She stated that the unit was clean at the start of the tenancy. She said that when the tenant moved out there was a large stain on the carpet, that it could not be cleaned, and that the carpet had to be replaced.

In her documentary evidence, the landlord provided 8 photographs in support of her claim for damages, showing in part; an oven covered with grease marks; a stained carpet; a hole in one of the walls; and a small bookshelf left behind.

The landlord provided receipts and submitted a monetary claim as follows:

- Unpaid utilities:	\$ 356.00
- Carpet cleaning:	\$ 31.35
- Materials:	\$ 22.99
- Renovate floor:	\$ 55.98
- Change carpeting:	\$ 267.88
- Sub-total:	\$ 734.20
- Security deposit:	\$ 375.00
- Total:	\$1109.20

The tenant did not dispute the unpaid utilities. Nor did she dispute the hole in the wall and the stained carpet, which she testified occurred while moving out. She argued that the stove was already dirty at the start of the tenancy, and that the carpet was already stained.

The landlord accused the tenant of lying.

### Analysis

Section 23(3), (4), and (5) and Section 35(1) of the Act place the onus to complete condition inspection reports on the landlord. The landlord's claim was not supported by these reports, and the Act states that the landlord's right to claim against a security deposit is extinguished without them. I find the landlord's documentary evidence of little value as it does not allow me to determine whether the unit was in any better condition when the tenant moved in than when she moved out, or to ascribe a monetary value for damages beyond reasonable wear and tear caused by this tenant. Therefore I dismiss the aspect of the landlord's application concerning damages, other than those conceded to by the tenant.

The tenant agreed to pay the unpaid utilities and accordingly I award the landlord \$356.00.

Concerning the hole in the wall, in the absence of an invoice for cost concerning that specific repair I award the landlord \$75.00.

Regarding the stained carpet, I award the landlord \$50.00.

Section 37 of the 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. This provision does not consider whether the unit was clean at the start of the tenancy. The tenant is obliged to comply with the Act and I award the landlord \$25.00 for cleaning the stove.

At the hearing the landlord was informed that mathematically, the tenant's security deposit ought to be deducted, and not added to the monetary claim.

### Conclusion

The landlord established a claim of \$506.00. I authorize the landlord to retain the tenant's \$375.00 security deposit for a balance owing of \$131.00. 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 \$181.00.

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: May 09, 2012.

---

Residential Tenancy Branch