



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNSD, MNDC, FF

### Introduction

This hearing was convened in response to an application filed by the landlord seeking:

1. A monetary Order for compensation for damage and/or loss;
2. An Order to be allowed to retain the security deposit; and
3. Recovery of the filing fee paid for this application.

This matter was originally convened on May 10, 2012 and was reconvened to June 6, 2012. Both parties attended on both dates.

Both parties gave evidence under oath.

### Issue(s) to be Decided

Has the landlord met the burden of proving that he is entitled to recovery of costs for the claims made.

### Background and Evidence

This tenancy began in October 1, 2010 and ended on or about January 31, 2012. Rent was fixed at \$1,050.00 and the tenants paid a security deposit of \$525.00 on or about October 1, 2010.

The landlords claim is for the following:

Electricity charges (tenant's share 1/3 of \$217.13)	\$ 72.37
Gas charges (tenant's share 1/3 of \$307.36)	162.45
Carpet cleaning charges	134.40
Rent for late move-out	525.00
Carpet Damage	800.00
Total	\$1694.22

The landlord did not prepare condition inspection reports at move in and move out. The landlord states that the tenant was to have vacated by January 31, 2012 but she did not return the keys until February 1, 2012. The landlord says the tenant phoned him at approximately midnight on January 31, 2012 to advise him that she was coming over with the keys and he said it was too late. The landlord says he had tenants lined up to move in but because the tenant did not clean the carpets and properly clean the rental unit he was unable to re-rent the premise on February 1, 2012 and he did not get new tenants to move in until February 15, 2012 thereby losing 2 weeks rental revenue. The landlord claims \$525.00 for this loss of revenue.

The landlord says the carpets are one and a half years old. The landlord says that the tenants damaged the carpet in the office in the area where they used their desk chair with rolling wheels. The landlord says the tenants should have used a plastic chair pad under the chair. The landlord says he has had an estimate that it will cost \$800.00 to repair this damage although no written estimate was provided in evidence.

The tenant agrees to the utility charges for electricity and gas and to the costs for carpet cleaning in the total amount of \$471.67. The tenant says she had already told the landlord that he could deduct these costs from the security deposit.

With respect to the return of the keys the tenant says that she attempted to return the keys on January 31, 2012 at 10:00 p.m. but was told that the landlord was sleeping and it would be agreeable to return the keys the next day. The tenant says she did not clean the carpets because it had already been agreed that the landlord would take care of this and deduct carpet cleaning charges from the security deposit.

With respect to the damage to the carpets the tenant agrees it was caused by the office chair but says the damage is not as severe as it appears in the photograph. The tenant says the nap of the carpet is simply pushed down from the chair. The tenant does not agree to \$800.00 in charges to make repairs.

### Findings

At the hearing of this matter the landlord raised issues of lack of cleaning however the landlord has not made a claim in this regard, I therefore decline to hear the matter.

As the tenant has agreed to the claims for electricity, gas and carpet cleaning I must only decide the issue of the loss of rental revenue and the carpet repairs.

With respect to the loss of rental revenue, the version of events between the parties differs. The onus or burden of proof is on the party making the claim. When one party provides testimony of the events in one way and the other party provides an equally probable but different explanation of the events, the party making the claim has not met the burden on a balance of probabilities and the claim fails. I therefore dismiss the landlord's claim for loss of revenue for February in the sum of \$525.00.

With respect to the carpet damage the tenant agrees that her office chair caused the damage but she says it is not as severe as the landlord is stating. The landlord has failed to supply written estimates for repairs. Further, the evidence is that the landlord has re-rented the premises without having made repair to the carpet and he has produced insufficient evidence that there has been a loss of revenue as a result of the condition of the carpets however I will allow \$53.33 for diminished value of the carpets.

### Conclusion

In full and final satisfaction of all of the landlord's claims, including the claim for recovery of the filing fee paid for this application I will allow the landlord to retain the security deposit of \$525.00 paid October 1, 2010 (no interest having accrued).

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: June 06, 2012.

---

Residential Tenancy Branch