



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' pet damage and security deposits in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:12 a.m. in order to enable them to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord testified that on March 5, 2012 the tenants provided the landlord with a written notice (dated March 1, 2012) to end their tenancy by March 31, 2012. The landlord testified that the landlord issued the tenants a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on March 5, 2012. The landlord testified that on March 14, 2012, the landlord accepted the tenants' full payment of rent for March 2012. The landlord testified that she sent copies of the landlord's dispute resolution hearing package to the tenants by registered mail on April 19, 2012. The landlord provided the Canada Post Tracking Numbers to confirm this registered mailing. I am satisfied that the above documents were served to one another in accordance with the *Act*.

### Issues(s) to be Decided

Is the landlord entitled to a monetary award for damage and losses arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenants' pet damage and security deposits in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

This periodic tenancy commenced on January 16, 2009. The tenants' portion of the \$1,250.00 market rent for this subsidized housing unit was \$410.00. The landlord continues to hold a \$580.00 security deposit paid on January 16, 2009 and a \$100.00 pet damage deposit paid on or about June 1, 2009.

The landlord entered into written evidence a copy of the reports of the January 16, 2009 joint move-in and the April 10, 2012 move-out condition inspections. The landlord testified that the tenants did not attend scheduled joint move-out condition inspections, resulting in the landlord's move-out inspection without the tenants. The landlord testified that copies of the above reports were sent to the tenants.

The landlord's application for a monetary award of \$2,096.00 included the following items based on the landlord's estimate at the time of her April 10, 2012 move-out condition inspection:

<b>Item</b>	<b>Amount</b>
Garbage Removal (3 full trucks)	\$600.00
General Cleaning (16 hours @ \$17.00 per hour)	272.00
Cupboard Replacement	100.00
Drywall Repairs	34.00
Replacement of 6 Bi-Fold Doors	480.00
Paint Walls and Ceilings	450.00
Replacement of 2 Deadbolts	160.00
<b>Total Monetary Award Requested</b>	<b>\$2,096.00</b>

In the Details of the Dispute in the landlord's application for dispute resolution, the landlord noted the following:

*Estimated costs to remove belongings and fix up unit for re-rental. We have processed the work to begin and will bring in the accurate invoiced pricing once the work is completed. We could only estimate at this time as the work just begun. I would also like to recover the filing fee.*

At the hearing, the landlord testified that the repair and cleaning work was completed in April and the premises were re-rented to another tenant as of May 1, 2012. She confirmed that the landlord had not submitted receipts or accurate invoices for the work that was conducted on this rental unit. She said that she had requested this information from the landlord's office, but had not received this information to date.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, a Dispute Resolution Officer may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

Although I am satisfied from the landlord's condition inspection reports and photographs that damage arose during this tenancy, I find that the landlord failed to submit any bills or invoices for the work conducted to repair the rental unit. I accept that the landlord would not have known the eventual costs of the repairs to this rental unit when the landlord submitted the April 16, 2012 application for this monetary award. However, work was completed on this rental unit well in advance of this hearing. Despite the landlord's stated assurance in the application for dispute resolution that she would submit accurate invoices, this did not occur prior to this hearing. Under these circumstances, I find that the landlord's entitlement to a monetary award is reduced.

I allow the landlord's claim of \$272.00 for general cleaning as this was clearly necessary at the end of this tenancy. Without accurate invoices or receipts, I do not find that the landlord is entitled to the full amount claimed for garbage removal. I also allow the landlord a monetary award of \$300.00 for the removal of garbage and debris.

Residential Tenancy Branch Policy Guideline 40 identifies the useful life of items associated with residential tenancies for the guidance of Dispute Resolution Officers in determining claims for damage. According to this Guideline, the useful life of interior painting is considered to be four years (48 months). The landlord testified that the rental unit was last fully painted shortly before this tenancy began in January 2009. By requiring re-painting in April 2012, this repainting occurred 39 months after the last repainting. On this basis, I allow only \$84.37 of the landlord's requested monetary award of \$450.00 for repainting {i.e.  $(1.00 - 39/48) \times \$450.00 = \$84.37$ }. I also allow the landlord's application for a monetary award of \$34.00 for drywall repairs, as I am convinced by the landlord's evidence that at least two hours of drywall repairs were necessary at the end of this tenancy for damage arising out of this tenancy.

I dismiss the remainder of the landlord's claim without leave to reapply as I am not satisfied that the landlord has provided sufficient evidence that can verify the actual monetary amount of the damage claimed.

As the landlord has been partially successful in this application, I allow the landlord to recover the filing fee from the tenants. I allow the landlord to retain the tenants' pet damage and security deposits plus applicable interest in partial payment of the monetary award issued in this decision. No interest is payable over this period.

### Conclusion

I issue a monetary Order in the landlord's favour under the following terms which allows the landlord to recover loss and damage arising out of this tenancy and to recover the filing fee for the landlord's application and to retain the tenants' pet damage and security deposits:

<b>Item</b>	<b>Amount</b>
Garbage Removal	\$300.00
General Cleaning (16 hours @ \$17.00 per hour)	272.00
Drywall Repairs	34.00
Paint Walls and Ceilings	84.37
Less Pet Damage and Security Deposits	-680.00
Filing Fee	50.00
<b>Total Monetary Order</b>	<b>\$60.37</b>

The landlord is provided with these Orders in the above terms and the tenant(s) must be served with a copy of these Orders as soon as possible. Should the tenant(s) fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: June 11, 2012

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Residential Tenancy Branch