



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNDC, MNR, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for a monetary order for unpaid rent, for damages and cleaning, for compensation under the Act and the tenancy agreement, to retain the security and pet damage deposits in partial satisfaction of the claim and to recover the filing fee for the Application.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

Are the Landlords entitled to monetary compensation from the Tenant?

### Background and Evidence

This tenancy began on June 1, 2010, and the Tenant paid the Landlords a security deposit of \$387.50 on that date. The original amount of monthly rent payable was \$775.00, however, during the course of the tenancy the rent was reduced to \$750.00 by the Landlords. The Tenant had pets in the rental unit and paid \$200.00 towards the pet damage deposit.

The Landlord testified that the Tenant failed to pay rent on March 1, 2012, and was served with a 10 day Notice to End Tenancy by the Landlords.

Sometime in early March the Tenant vacated the property without giving any notice to the Landlords. The Landlord submits that the Tenant moved out during the night and did not provide the Landlord with a forwarding address. The Landlords used a process server to find the Tenant to serve documents.

The Landlord testified that the Tenant left without making any effort to clean the rental unit and did not remove food from the fridge, or remove other unwanted items such as garbage or .

The Landlords allege they incurred substantial costs to clean and repair the rental unit due to the condition it was left in by the Tenant.

The Landlords claim as follows:

a.	Unpaid March 2012 rent	750.00
c.	Suite and carpet cleaning	649.60
d.	Newspaper ad	41.50
e.	Re-key locks	167.57
f.	Dump fees	19.00
g.	Fuel and labour for trip to dump	55.00
h.	Replace bedroom and closet doors	250.00
i.	Process serving of documents	194.55
j.	Filing fee	50.00
	<b>Total claimed</b>	<b>\$2,927.22</b>

The Tenant agreed he owed the Landlords rent for March 2012, as he had not paid this. He further agreed that he did not return the keys to the Landlords, that he had broken the two doors, and that he barely did any cleaning.

The Tenant testified that the rental unit was dirty when he moved in and that is why he did not do much cleaning. He further alleged that the Landlords were not easy to deal with. He testified he asked for repairs to be done to the rental unit and the Landlords failed to do these. The Tenant alleged there was mold in the rental unit.

The Tenant also agreed he was at fault for much of the Landlords' claims, although he has no money to pay them. He requested a payment schedule.

### Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find the Tenant breached section 26 of the Act and breached the tenancy agreement by failing to pay rent when due on March 1 of 2012; and breached section 37 of the Act by failing to return the keys to the rental unit and by failing to return the rental unit to the Landlords in a reasonably clean and undamaged state, except for reasonable wear and tear.

Regardless of the condition of the rental unit at the start of the tenancy, the Tenant is required under section 37 of the Act to return the rental unit to the Landlords in a reasonably clean and undamaged state at the end of the tenancy. Furthermore, if the Tenant felt there were problems with the rental unit during the tenancy he should have filed an Application to have the Landlords repair the rental unit or comply with their obligations under the Act. Under the law, no tenant in the Province may withhold rent without authority to do so under the Act, even if the Landlord is in breach of the tenancy agreement or the Act.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find the Tenant failed to pay March 2012 rent, and did not clean the unit, make necessary repairs, or return the keys to the rental unit to the Landlords, and these breaches have caused losses to the Landlords.

Nevertheless, I do not find the Landlords established a loss of rent for April which was attributable to the Tenant. The Tenant left the rental unit in early March, the Landlords had possession of the rental unit in early March and cleaning was completed before the middle of March, according to the invoice provided by the Landlords. The Landlords had insufficient evidence they lost rent in April due to any breaches by the Tenant.

Furthermore, as this was a month to month tenancy, the Landlords are not entitled to claim the cost of advertising, as this is a cost of doing business as a landlord. I find the advertising loss was not a loss due to a breach by the Tenant.

Therefore, I award the Landlords the following amounts:

a.	Unpaid March 2012 rent	750.00
c.	Re-key locks	167.57
d.	Dump fees	19.00
e.	Fuel and labour for trip to dump	55.00
f.	Replace bedroom and closet doors	250.00
g.	Process serving of documents	194.55
h.	Filing fee	50.00
	<b>Total allowed</b>	<b>\$2,135.72</b>

Having found that the Landlords have established a total monetary claim of **\$2,135.72** comprised of the above described amounts, I order that the Landlords may retain the security and pet deposits of **\$587.50** in partial satisfaction of the claim and I grant the Landlords an order under section 67 for the balance due of **\$1,548.22**

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

It is up to the parties, or the Provincial Court, to establish a payment schedule for the amount awarded.

### Conclusion

The Tenant has breached the Act and tenancy agreement. The Landlords are granted a monetary order for their allowable losses and may keep the deposits in partial satisfaction of the claim, and have a monetary order for the balance enforceable in the Provincial Courts.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: July 11, 2012.

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Residential Tenancy Branch