



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Code MND, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for damages to the unit and an order to retain the security deposit in partial satisfaction of the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on May 4, 2012, Canada post tracking numbers were provided as evidence of service, the tenants did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenants have been duly served in accordance with the Act.

The landlord's agent gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation for damages?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

### Background and Evidence

The parties entered into a one year fixed term tenancy, which began on May, 1, 2011. Rent in the amount of \$1,400.00 was payable on the first of each month. A security deposit of \$700.00 was paid by the tenants. The tenancy ended on April 30, 2012.

The tenants vacated the property, however, the landlord has incurred additional costs to repair the rental unit due to the condition the carpet and walls were left in by the tenants.

The landlord claims as follows:

a.	Replace carpet	\$1,200.64
g.	Filing fee	\$ 50.00
	<b>Total claimed</b>	<b>\$1,530.64</b>

The landlord's agent testified the parties participated in a move-in inspection and a move-out inspection. Filed in evidence is a copy of the inspection report.

The landlord's agent testified that the tenants told him they accidentally dropped a flaming alcoholic shooter on the carpet, which burned a 12 by 12 inch area in the carpet. The landlord's agent stated the carpet is approximately five years old and is required to be replaced due to the damage. The landlord seeks to recover \$1,200.64 to replace the carpet. Filed in evidence is an estimate to have the carpet replaced.

The landlord's agent testified that the tenants placed mirrors on one of the walls with double sided tape. The landlord's agent stated in order to return the rental unit to its original condition the mirrors were removed from the wall. As a result, the wall was damaged and was required to be repaired and painted. The landlord seeks to recover \$280.00 for those repairs. Filed in evidence is a receipt for removing the mirrors, repairing and repainting the wall.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

To prove a loss and have one party pay for the loss requires the other party to prove four different elements:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act or agreement;
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
4. Proof that the Applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

In this case, the landlord has the burden of proof to prove a violation of the Act and a corresponding loss.

### Replace carpet

Policy Guideline 37 states the useful life of a carpet is ten years.

The evidence of the landlord's agent was the tenants dropped a flaming alcoholic shooter on the carpet which caused damage to the carpet. On the move-out inspection the tenants acknowledged the damage to the carpet. I find due to the actions of the tenants they have caused damage to the landlord's property and the landlord suffered a loss.

However, as the carpet was five years old at the end of the tenancy, the landlord is only entitled to receive the depreciated value of fifty percent to replace the carpet from the estimated amount of \$1,200.64. Therefore, I grant the landlord compensation for the depreciated value to replace the carpet in the amount of **\$600.32**.

#### Repair wall

Policy Guideline 1- Renovations and Changes to Rental Unit states:

If the tenant does not return the rental unit to its original condition before vacating, the landlord may return the rental unit and/or residential property to its original condition and claim the costs against the tenant.

In this case, the tenants placed mirrors on the wall with double sided tape. On the move-out inspection the tenants acknowledged they placed mirrors on the wall. When the mirrors were removed by the landlord it caused damage to the walls. I find due to the actions of the tenants breaching the Act the landlord has suffered a loss. Therefore, I grant the landlord compensation for the cost of returning the property to its original condition in the amount of **\$280.00**.

I find that the landlord has established a total monetary claim of **\$930.32** comprised of the above described amounts and the \$50.00 fee paid for this application.

I order that the landlord retain the deposit and interest of **\$700.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$230.32**.

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

#### Conclusion

The landlord is granted a monetary and may keep the security deposit in partial satisfaction of the claim and the landlord is granted an order for the balance due.

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: July 13, 2012.

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Residential Tenancy Branch