



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND MNR MNSD MNDC FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "*Act*"), seeking a monetary order for unpaid rent, damage to the unit, site or property, to keep all or part of a security deposit, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the filing fee.

The tenants and the landlords appeared by conference call and gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

Both parties agreed that they received the evidence packages of the other party and had an opportunity to review them. I find the parties were served in accordance with the *Act*.

### Preliminary Matters

The landlords requested to withdraw the \$1,000.00 driveway repair portion of their monetary claim. This reduced the total monetary claim from \$2,391.19 to **\$1,391.19**. Therefore, I dismiss the \$1,000.00 driveway repair portion of the landlords' application with leave to reapply. This does not extend any applicable time limits under the *Act*.

Both parties referred to a 2 month notice served by the landlords due to the sale of the rental unit. The tenants stated that this notice was not valid. The landlords agreed that the 2 month notice was not provided in accordance with the *Act*, and was not valid as a result. Given the above, the 2 month notice has not been afforded weight in this Decision as it was not valid under the *Act*.

### Issue(s) to be Decided

- Should the landlords be granted a monetary order for unpaid rent, damage to the unit, site or property, or for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?
- Should the landlords be authorized to retain all or part of the security deposit?
- Should the landlords recover the filing fee?

### Background and Evidence

The landlords provided a copy of the signed tenancy agreement as evidence. The tenancy agreement shows a month to month tenancy which began on November 15, 2011. Both parties agree that rent in the amount of \$950.00 was due on the first day of each month. The landlords testified that a security deposit of \$475.00 was received from the tenants at the start of the tenancy.

The landlords testified that rent was paid for April 2012. According to the landlords, rent was not paid for May 2012. The landlords confirmed that a move-in condition inspection report was not completed. The landlords submitted a move-out condition inspection report as evidence, but confirmed during the hearing that the entire form, including the move-in portion was completed by the landlords without the tenants being present.

A 1 Month Notice to End Tenancy for Cause (the "Notice") was submitted as evidence. The landlords testified that the Notice dated April 23, 2012 was served on the same date, by posting to the tenants' door. The tenants confirmed they received the Notice on April 23, 2012. The effective date of the Notice indicated May 31, 2012. The tenants confirmed that they did not dispute the Notice.

The tenants testified that they vacated the rental unit on April 30, 2012, without written notice, due to what was happening in their personal lives and due to a realtor who allegedly requested to show the rental unit without the proper notice. The landlords disputed the day the tenants vacated. According to the landlords, the tenants had boxes in the rental unit and vehicles belonging to the tenants in the driveway on May 1, 2012 until 2:00 p.m. The tenants confirmed that they did not return the keys to the landlords, due to the locks being changed after they vacated the rental unit.

The tenants provided the following testimony regarding the cleaning of the rental unit. The female tenant stated that she was unable to return to the rental unit to clean. The male tenant testified that by 4:00 p.m. on moving day, he did not know what to do but agreed that the rental unit certainly needed to be cleaned. The tenants stated that the rental unit was not "filthy dirty", but was in need of cleaning. The tenants confirmed

there was a stain near the dishwasher, and that cleaning and vacuuming was required. Both parties agreed the carpets were worn in places at the start of the tenancy. The landlord testified that the carpets were nine years old.

The landlords provided before and after photos which they state depict the condition of the rental unit before the tenants moved into the rental unit and the condition it was left in after they vacated. The photos show the interior, exterior and driveway portions of the rental unit, according to the landlords.

The landlords' amended monetary claim of \$1,391.19 consists of the following:

Rent for May 2012	\$950.00
Photos	\$17.92
New Door Lock	\$19.01
Carpet cleaning	\$168.00
20 hours labour to clean unit @ \$10.00 per hour	\$200.00
Receipts for driveway oil remover	\$36.26
<b>TOTAL</b>	<b>\$1,391.19</b>

Both parties provided documentary evidence including notices, forwarding address, receipts, printouts, rental agreement, condition inspection report, correspondence, and photos prior to the hearing. Only the relevant evidence has been considered in this Decision.

### Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

**1 Month Notice to End Tenancy for Cause (the “Notice”)** – The tenants confirmed receiving the Notice on April 23, 2012 after it was posted on the same date by the landlords. The tenants did not dispute the Notice. The effective date of the Notice indicated May 31, 2012. I find the Notice to be valid and that it was served on the tenants in accordance with section 47 of the *Act*. Pursuant to section 47 of the *Act*, I find the tenants are conclusively presumed to have accepted that the tenancy was ending on the effective date of the Notice, which stated May 31, 2012.

**Claim for unpaid rent** - The landlords claimed \$950.00 for unpaid rent for May 2012. Pursuant to section 26 of the *Act*, the tenants must pay rent when it is due in accordance with the tenancy agreement. Based on the above, I find that the tenants have failed to comply with a standard term of the tenancy agreement which stipulates

that rent is due monthly on the first of each month. As the tenants did not provide written notice in accordance with section 45 of the *Act*, I find the landlord has met the burden of proof and I award the landlord a monetary claim of **\$950.00** for rent owed for May, 2012.

**Claim for photos** – The landlords have claimed \$17.92 for the cost of photos. An applicant can only recover damages for the direct costs of breaches of the *Act* or the tenancy agreement in claims under Section 67 of the *Act*, but “costs” incurred with respect to filing a claim for damages are limited to the cost of the filing fee, which is specifically allowed under Section 72 of the *Residential Tenancy Act*. As a result, this portion of the claim is **denied**.

**Claim for new door lock, carpet cleaning, cleaning costs and driveway oil remover** – The landlords submitted receipts for a new door lock (\$17.92), carpet cleaning (\$168.00), and driveway oil remover and cleaner (\$36.26). The landlords also submitted as evidence that they spent 20 hours cleaning the rental unit at \$10.00 per hour (\$200.00).

The landlords provided photos which they state depict the condition of the rental unit before the tenants moved in, and after the tenants vacated. The tenants disputed the photos by stating that some of the photos were taken while they were vacating the premises. The tenants did confirm that cleaning was not completed by them after vacating the rental unit.

I find the carpet was in need of professional carpet cleaning. I, therefore, grant the \$168.00 for carpet cleaning.

I find the tenants did not return the keys immediately upon vacating. I, therefore, grant the new door lock claim of \$17.92.

Based on the testimony and photos of the driveway, I grant the landlords claim for \$36.26 for driveway oil remover and cleaner.

I find that the tenants failed to clean the rental unit as required by Residential Tenancy Branch Guideline #1. According to the guideline #1, the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit. I find the photos depict a rental unit that was not reasonably clean; however, I find the landlords’ claim for 20 hours of cleaning to be excessive based on the photos provided. I find a reasonable amount of time is 10 hours to clean based on the evidence provided. The landlords’ submission indicates \$10.00 per hour for cleaning costs. I, therefore, grant the landlords \$100.00 for cleaning costs.

The security deposit paid by the tenants in the amount of \$475.00 has accrued no interest to date.

The landlords have succeeded with their application; therefore I award recovery of the **\$50.00** filing fee. The total monetary amount of **\$1,323.27** consists of the following:

Rent for May 2012	\$950.00
New Door Lock	\$19.01
Carpet cleaning	\$168.00
10 hours labour to clean unit @ \$10.00 per hour	\$100.00
Receipts for driveway oil remover	\$36.26
Filing fee	\$50.00
<b>Subtotal</b>	<b>\$1,323.27</b>
Less security deposit	(\$475.00)
<b>TOTAL</b>	<b>\$848.27</b>

### Conclusion

I find that the landlord has established a total monetary claim of **\$1,323.27**. I order that the landlord retain the deposit and interest of \$475.00 in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$848.27**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

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 5, 2012

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Residential Tenancy Branch