



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes MNR, MND, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for unpaid rent, 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 August 9, 2012, Canada post tracking numbers were provided as evidence of service. The registered mail packages were returned as unclaimed by the addressees. The landlord further attended at the residence of the tenants and personally served the tenant (KB).

Given the above, I find the tenants were served in accordance with the *Act*. I note that refusal or failure to accept service is not grounds for a Review.

The landlord appeared, gave affirmed testimony and was 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.

### Issue(s) to be Decided

Is the landlord entitled to monetary order for unpaid rent?  
Is the landlord entitled to a monetary order for damages to the unit?  
Is the landlord entitled to retain the security deposit?

### Background and Evidence

The tenancy began on March 1, 2011. Rent in the amount of \$1,900.00 was payable on the first of each month. A security deposit of \$900.00 was paid by the tenants. Filed in evidence is a copy of the tenancy agreement.

The tenants were served with a ten day notice to end tenancy for unpaid rent and vacated the unit on July 7, 2012. Filed in evidence is a copy of the notice.

The landlord testified that the tenants were in rent arrears of \$500.00 for the month of May 2012, and the tenants did not pay any rent for June 2012. The landlord is seeking to recover \$2,400.00 for unpaid rent.

The landlord testified the tenants did have the carpets steam cleaned at the end of tenancy. The landlord stated she paid \$103.32 to have the carpets clean and seeks to recover that amount. Filed in evidence is a receipt for carpet cleaning.

### 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:

- Proof that the damage or loss exists;
- Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act or agreement;
- Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
- 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.

*26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

The evidence of the landlord was the tenants did not pay all rent owed for May 2012 and did not pay any rent for June 2012. I find the tenants have breached section 26 of the Act and the landlord suffered a loss. Therefore, I find the landlord is entitled to recover unpaid rent in the amount of **\$2,400.00**.

Under section 37 of the Act, the tenants are required to return the rental unit to the landlord reasonably clean and undamaged, except for reasonable wear and tear.

I find the tenants have breached section 37, when they failed to clean the carpets when they vacated the rental unit.

Under Policy Guideline 1, which clarifies the rights and responsibilities of the parties for the premises under the Act, the tenant is generally expected to clean the carpets if vacating after a tenancy of one year. Therefore, I allow the landlord claims for carpet cleaning in the amount of **\$103.32**.

I find that the landlord has established a total monetary claim of **\$2,553.32** comprised of the above described amounts and the \$50.00 fee paid for this application.

I order that the landlord retain the deposit of **\$900.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1,653.32**.

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 a portion of the security deposit in partial satisfaction of the claim. The landlord is granted a monetary 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: October 17, 2012.

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Residential Tenancy Branch