



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNR, MNDC, MND, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for compensation for loss – Section 67;
3. A Monetary Order for compensation – Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not appear at the Hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recovery of the filing fee?

### Background and Evidence

The tenancy started on June 15, 2010 on a fixed term to June 15, 2011. The Tenant failed to pay rent for November and December 2011 and for January and February 2012. On February 5, 2012 the Landlord served the Tenant with a 10 day Notice to End tenancy for unpaid rent by posting the Notice on the door. Rent of \$1,950.00 was payable monthly and at the onset of the tenancy the Landlord collected \$975.00 as a security deposit and \$975.00 as a pet deposit. The Landlord called and emailed the

Tenant during February 2012 but no response was obtained and the Landlord learned prior to March 2012 that the phone lines were cut off. The Landlord was out of the country at the time and returned in early March 2012 to discover that the Tenant had abandoned the property. No keys had been returned and the unit was left unlocked. The Landlord stored the Tenant's property that had been left behind, made repairs and cleaned the unit and was able to rent the unit to new tenants for May 1, 2012. The Landlord claims unpaid rent from November 2011 to April 2012, inclusive in the amount of \$11,700.00.

The Landlord states that the Tenant left the unit unclean and damaged and that it took approximately one month to bring the unit back to rentable condition. The Landlord claims the following costs:

- \$611.68, receipt provided, for the replacement of a washing machine that had been placed outside of the unit by the Tenant. The washing machine was 12 years old at the time of the replacement;
- \$2,700.00 for repair (varnishing) to the hardwood floors that were left with cuts, dirt and no varnish. The floors were last refinished approximately 5 years previous;
- \$45.00 + 7.84 for garbage dump fees for garbage left behind by the Tenant;
- \$34.80 + 40.00 + 32.43 for gas costs to haul the garbage;
- \$1,230.00 for cleaning the unit and yard. The unit was cleaned to a high standard by the Landlord who claims an hourly rate of \$30.00 for 41 hours;
- \$10.75 for cleaning supplies;
- \$219.45 for repair to the driveway which had been covered by 2" of road crush and which was cut up by the Tenant;
- \$120.00 to clean up the area of the yard where the Tenant had cut down four (4) 70' cedar trees without the Landlord's permission;
- \$2,000.00 for the replacement value of the cedar trees. The Landlord has not replaced those trees and does not intend to replace the trees. The Landlord estimates the loss of trees for cordwood at \$200.00 per tree;

- \$44.78 for the cost to replace the locks and keys as the Tenant did not return the keys to the unit.

The Landlord claims \$30.03 for the cost of the newspaper notice in relation to the disposal of the Tenant's goods.

The Landlord claims the following costs in relation to the dispute resolution process:

- \$100.00 for a previous filing fee paid by the Landlord in relation to an application and claims against the Tenant that was dismissed with leave to reapply;
- \$19.69 for registered mail; and
- \$19.91 for photos prints and photocopies
- \$100.00 for recovery of the current filing fee.

### Analysis

In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established. Based on the undisputed evidence that the Tenant failed to pay rent, left the unit unclean and damaged causing the Landlord a month to repair and remedy, and that the Tenant did not inform the Landlord of the date of move-out or return the keys, I find that the Landlord has substantiated a monetary entitlement to **\$11,700.00** in unpaid rent.

Based on the undisputed evidence and considering the photos provided, I find that the Tenant failed to clean the unit and I find that the Landlord has substantiated a monetary entitlement to **\$1,445.60** (45.00 + 7.84+34.80 + 40.00 + 32.43+1,230.00+10.75 + 44.78) for the costs of garbage removal, including gas, and for the costs of cleaning the unit and yard, including supplies and for the cost of replacing locks and keys. As the

Landlord has been found entitled to an amount for cleaning the yard, I dismiss the second claim for cleaning the yard in the area of the trees that were cut down.

Policy Guideline 40 sets out the useful life of a washing machine at 15 years. Taking into account that the washing machine that was damaged by the Tenant was 12 years old, I find that the Landlord is entitled to only a nominal amount for the loss of 3 years useful life of the washing machine in the amount of **\$120.00**.

Based on the undisputed evidence that the Tenant caused damage to the hardwood floors but considering the photos that do not show significant damage and that the Tenant is not responsible for reasonable wear and tear and that the floor was refinished 5 years before the tenancy, I find that the Landlord has established a nominal amount for the Tenant's contribution to the loss of the finish of the hardwood floors in the amount of **\$500.00**.

Considering that the condition inspection report does not indicate any damage to the driveway and considering that no photos of the driveway were provided, I find that the Landlord has failed to establish damages to the driveway and I dismiss this claim.

Based on the undisputed evidence of the Landlord, I find that the Tenant cut down trees on the property without the permission of the Landlord. Given however that the Landlord has not and will not be replacing the trees cut down by the Tenant but accepting as reasonable that the Landlord could have used the wood as cordwood at cost of \$200.00 per tree, I find that the Landlord is entitled to compensation for the loss of cordwood in the amount of **\$800.00**.

Given that the Landlord was required by the Residential Tenancy Regulations to place an advertisement in relation to the disposal of the goods left behind by the Tenant and considering the undisputed evidence that the Tenant left belongings in the unit, I find that the Landlord has substantiated that the Tenant caused this loss and that the Landlord is therefore entitled to the recovery of the cost of **\$30.03**.

As costs associated with the dispute process, other than the filing fee, are not a compensable loss under the Act, I dismiss the Landlord's claim to costs for registered mail, photos and photocopying. Accepting the Landlord's evidence that a previous application was dismissed, I find that the Landlord is not entitled to recovery of the filing fee for this dismissed application.

As the Landlord has been substantially successful with its application, I find that the Landlord is entitled to recovery of the current filing fee of **\$100.00** for a total entitlement of **\$14,695.63**. Setting the combined security and pet deposit plus zero interest of **\$1,950.00** off the entitlement leaves **\$12,745.63** owed by the Tenant to the Landlord.

#### Conclusion

**I order** that the Landlord retain the **deposit** and interest of \$1,950.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$12,745.63**. If necessary, this order may be filed in the Small Claims Court and enforced as an order 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: November 1, 2012.

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Residential Tenancy Branch