



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND, MNSD, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by both landlords and the tenant's agent.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for damage to the rental unit; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The parties agreed the tenancy began on December 15, 2010 as a month to month tenancy for a monthly rent, in the second year of the tenancy of \$3,100.00 due on the 1<sup>st</sup> of each month with a security deposit of \$1,490.00 paid on November 11, 2010. The parties also agree the tenancy ended on August 31, 2012.

The parties also agree that on the day of the move out condition inspection, after a thorough inspection of the rental unit, the landlords identified to the tenant that they felt the rental unit had not been cleaned sufficiently, in particular the carpet; a portion of the dishwasher; caulking in the under-mount sink; and rust stains in the master bathroom from metal screws on the hand rail.

The tenant's agent testified that the tenant had identified to the landlord that they had had the rental unit professionally cleaned but that they did not have the receipts with them at the move out inspection. A receipt was submitted into evidence by the tenant in the amount of \$392.00 for "house cleaning" dated August 29, 2012 identifying the rental unit address.

The tenant submits that while they disagreed with the landlord's assertion that the rental unit required cleaning and as they were leaving the country they agreed to allow the landlord to withhold \$300.00 for any additional cleaning that may have been required.

The landlord submits that their cleaner completed, at a cost of \$481.60 (receipt provided into evidence, the following cleaning:

- Master bedroom – clean 3 doors, glass door to the balcony and 2 windows;
- Bathroom – shower wall, toilet, two sinks, bathtub, cabinet, floor;
- Second Bedroom – bathroom tub, toilet, 3 doors and walls;
- Living room – clean hardwood floor;
- Kitchen – stove, dishwasher, cabinets, floor;
- Entrance floor;
- Power wash balcony, walls, and glass; and
- Professional clean and shampoo the carpet.

The landlord also submits that there was a hole in a door that required the landlord to replace the door (\$161.80 – receipt provided into evidence) and that after the carpets had been cleaned there remains several yellowish spots that could not be removed and therefore the carpet required replacement. The landlord did not know what had caused these stains.

While both parties provided copies of the Condition Inspection Report neither copy provided any recordings of the condition of the rental unit at the end of the tenancy. The landlord confirmed in his testimony that he did not complete the move out condition in that report. The landlord provided 14 photographs: #1, #2 - bathroom; #3 - dishwasher interior; #4, #5, #6 - balcony; #7 - small hole in door; and #8 to #14 carpet related.

### Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 37 of the *Act* requires a tenant who is vacating a rental unit to leave the unit **reasonably clean, and undamaged except for reasonable wear and tear**, and give the landlord all keys or other means of access that are in the possession and control of the tenant and that allow access to and within the residential property [emphasis added].

The burden is on the landlord to provide sufficient evidence that the tenant has violated the *Act*, regulation or tenancy agreement. In the case before me that means the landlord must provide sufficient evidence to establish the tenant failed to leave the unit reasonably clean and undamaged except for reasonable wear and tear.

As the landlord has not completed the Condition Inspection Report with any record of the condition of the rental unit at the end of the tenancy I must rely solely on the photographic evidence provided by the landlord as the only record of that condition.

As such, I find the landlord has failed to provide any evidence in regard to the condition that would warrant the following cleaning claimed for:

- Master bedroom – clean 3 doors,;
- Bathroom – shower wall, two sinks, bathtub, cabinet, floor;
- Second Bedroom – bathroom tub, toilet, 3 doors and walls;
- Living room – clean hardwood floor;
- Kitchen – stove, cabinets, floor;
- Entrance floor; or
- Power wash balcony, walls, and glass.

From the landlords' photographs #1 to #6 including the toilet, bathroom sink, dishwasher and balcony I find the landlords have established that one section of one toilet had been left uncleaned; that the under mounting of a bathroom sink had discoloured; the edge of the dishwasher was uncleaned; and there was dust on the exterior window ledge and balcony.

When taken in context of the entire rental unit, I find that these few minor imperfections in cleaning do not constitute a breach or violation of the tenant's obligation under Section 37 to leave the unit *reasonably* clean.

I also accept from photograph #7 that there was a small hole in the bottom of what appears to be a door, although the photograph is a close up of the hole and not the full door. Based on this photograph, however, I find that this hole was quite small and the landlords have provided no evidence that they attempted to repair it rather than replace it. As such, even though there is damage to the door, I find the landlord failed to take any steps to mitigate this loss (i.e. repair vs. replace).

While the tenant has submitted a receipt for house cleaning there are no specific details as to what was cleaned and as such I find the tenant has failed to establish that they had the carpets professionally cleaned at the end of a 20 month tenancy. Residential Tenancy Policy Guideline #1 stipulates that for tenancies over 1 year in duration a tenant is responsible for having the carpets steam cleaned or shampooed.

I note as well that the receipt submitted into evidence by the landlords also does not detail any specific amount for carpet cleaning, however, I find that the \$300.00 the parties agreed upon for cleaning is sufficient compensation for the carpet cleaning.

As to the landlords' claim for replacement carpets, Residential Tenancy Policy Guideline #40 stipulates that the useful life of carpeting is 10 years. As per the landlord's testimony the carpet is 4 or 5 years old and therefore has reached ½ of its useful life.

From the landlords' photographic evidence I find the landlord has provided evidence of carpets that have been discoloured as a result of aging and I find there is no evidence that the tenants caused any damage beyond reasonable wear and tear.

I find the landlord has failed to establish a claim for any compensation over and above the amount already agreed upon by the parties on August 31, 2012 in the amount of \$300.00.

### Conclusion

Based on the above, I dismiss the landlords' Application in its entirety.

I order the landlords may retain the \$300.00 agreed to by the parties and they must return the balance of the security deposit held. I grant a monetary order to the tenant in the amount of **\$1,190.00**.

This order must be served on the landlords. If the landlords fail to comply with this order the tenant may file the order in the Provincial Court (Small Claims) and be 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: December 17, 2012.

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Residential Tenancy Branch