



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** MND, MNR, MNDC, MNSD, FF.

### **Introduction,**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for a monetary order for the cost of repairs, unpaid rent, replacement of appliances and the filing fee. The tenant applied for the return of the security deposit and compensation for the loss of his personal belongings and rent for nine months.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to a monetary order to recover the cost of repairs, appliances, unpaid rent and the filing fee? Is the tenant entitled to the return of the security deposit and compensation?

### **Background and Evidence**

The tenancy started on May 15, 2012. Both parties filed a copy of the rental agreement which indicates that this is a month to month tenancy. The tenant stated that the parties verbally agreed to a one year term as the tenants were considering purchasing the unit. The rent was \$1,325.00, due on the fifteenth day of each month. Prior to moving in, the tenant paid a security deposit of \$600.00.

In a written statement, the landlord testified that the tenant failed to pay rent on August 15, 2012. The landlord made a few unsuccessful attempts to contact the tenant by text message and telephone. On August 16, 2012, the landlord visited the rental unit and found no one home. He posted a notice to end tenancy for unpaid rent. The landlord visited again on August 17 and found no one home.

On August 19 at around 10:00 pm the landlord received a call from a neighbour who informed the landlord that it appeared as if the tenants were moving out. The landlord visited the rental unit on August 22 and found the side door open, the front door unlocked and the pool in the back missing. Upon entering through the front door he found garbage piled in the foyer and 10-15 bags of garbage in the garage.

The landlord found the place in a mess with trash strewn throughout the house. Food and food containers were on the kitchen floor and countertops and the kitchen appliances were missing. The master bedroom reeked of smoke and there were cigarette burns on the carpet and linoleum. The landlord found a fist sized hole in the bedroom wall. The landlord also noticed the presence of coffee stains and dog faeces on the carpets.

The landlord stated that he and his wife took two days off work to clean the mess and hired professionals to clean the carpet. The landlord filed photographs depicting the condition of the house. The photographs confirm the landlord's statement and show extensive damage to the rental unit, holes in the walls, damaged floors, missing kitchen faucets, missing appliances, broken light fixture and a lot of items that appeared to be of little to no value strewn all through the house. The landlord stated that the appliances were purchased in 2009.

The landlord also filed a note from a neighbour regarding what he witnessed. He was unsure of the exact date but noticed the front door ajar on his way to work and still ajar when he returned. He knocked on the door and when no one answered, he simply shut the door. The neighbour also stated that the night before he had noticed multiple cars removing items from the house. He found the activity around the home suspicious and took a photograph of a commercially marked pickup truck parked outside the home.

The landlord later followed up by contacting the driver through the business that was advertised on the truck. The driver named the tenant as the person he was helping move. The landlord reported the matter to the police and started the restoration work by removing garbage to the dump in two loads and then cleaning the carpets and fixing the walls. The landlord also changed the locks and filed receipts for all the expenses incurred.

The landlord is claiming the following;

1.	Carpet cleaning	\$239.00
2.	Dumping fees	\$49.00
3.	Washer and dryer	\$799.52
4.	Refrigerator, stove and dishwasher	\$1,841.28
5.	Rent for August	\$1,325.00
6.	Filing fee	\$50.00
	<b>Total</b>	<b>\$4,253.80</b>

The tenant stated that on August 13, he left for Edmonton and requested a friend to house sit for him. He gave the friend his rent and a letter for the landlord explaining his absence from the rental unit. The tenant stated that since there was no communication from the landlord, he assumed all was well. He also added that he realized that he did not have his cell phone on him while out of Province and therefore the landlord had no way of contacting him. The tenant testified that upon his return on August 27, he found himself locked out of the rental unit. He contacted the landlord who asked him to contact the police.

The tenant stated that on August 27 he moved into a motel and filed a copy of the receipt. The date on the receipt appears to have been altered from August 20 to August 27. The receipt also indicates that payment was made on August 20 for a stay ending September 19, 2013. A note written by the tenant states that he was out of the Province from August 13 to August 27, 2013 which does not coincide with the dates on the receipt that the tenant filed into evidence.

The tenant stated that he was not able to contact the house sitter and has been looking for him. The tenant also stated that the owner of the pickup truck is someone who owns a business that buys and sells second hand goods. The tenant stated that the photograph was taken about a month prior when the tenant sold some items to this business. The tenant stated that he was unable to contact this person as the business has since closed down.

The tenant is claiming \$10,000.00 for the loss of his property. He stated that he had clothes, dishes, furniture, remote control cars etc. but did not have any evidence to support his claim. I asked the tenant to describe from the landlord's photographs the items of value – the tenant pointed out to items such as plates, antique vase, plastic bucket, recycling can, tackle box etc that he claimed were of considerable value. The tenant is also claiming rent for nine months. He stated that the reason for this was he stayed only three months out of the one year term.

The tenant is claiming the following:

1.	Rent for nine months	\$11, 925.00
2.	Los of personal belongings	\$10,000.00
3.	Security deposit	\$600.00
	Total	<b>\$22,525.00</b>

## **Analysis**

### **Landlord's application:**

Based on the photographs and the paid receipts, I find that the landlord is entitled to the cost of cleaning the carpet and the dumping fee in full.

Based on the testimony of the landlord, the photographs and the receipts, I find that when the landlord visited the unit the appliances were missing. Since the tenant had possession of the unit, I find that he is responsible for the replacement of all the appliances that were missing.

Section 37 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. I will use this guideline to assess the remainder of the useful life of the appliances. As per this policy, the useful life of kitchen appliances is 15 years. At the time the appliances went missing they were approximately three years old and therefore had approximately 12 years of useful life left. Accordingly the landlord is entitled to \$2,112.64 which is the prorated value of the remainder of the useful life of the missing kitchen appliances.

I find that the tenant abandoned the rental unit, by moving out without informing the landlord. The tenant did not pay rent for August and therefore owes the landlord rent in the amount of \$1,325.00.

Since the landlord's claim has merit, he is also entitled to the recovery of the filing fee.

Overall the landlord has established a claim as follows:

1.	Carpet cleaning	\$239.00
2.	Dumping fees	\$49.00
3.	Kitchen appliances	\$2,112.64
4.	Rent for August	\$1,325.00
5.	Filing fee	\$50.00
	Total	<b>\$3,775.64</b>

### **Tenant's Application:**

The tenancy agreement was a month to month agreement and not a fixed term. Therefore I dismiss the tenant's claim for nine month's rent for the alleged breach of the fixed term.

Based on the hotel receipt filed into evidence by the tenant, I find that the tenant moved into the hotel on or about August 20, 2012 and was not out of the Province until August 27, as testified under oath, during the hearing. I find that the tenant abandoned the rental unit and left items of little to no value behind. The items that the tenant pointed out to in the photographs filed by the landlord, confirms that the tenant left behind items that were of little to no use to him and were strewn all through the rental unit. Therefore I dismiss the tenant's claim of \$10,000.00 for the loss of personal belongings.

I order that the landlord retain the security deposit of \$600.00 and interest of \$0.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$3,175.64. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord a monetary order in the amount of **\$3,175.64**.

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: February 01, 2013

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Residential Tenancy Branch

