



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNDC, 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 the landlords; the tenant; and the tenant's advocate.

The tenant submits that the landlord has only named one party as the respondent in her Application despite the original tenancy agreement being with the tenant and her former partner. The parties acknowledge that during the tenancy the partner vacated the property and the tenancy continued on with only the female tenant. The tenant sought to have the former male tenant added to the landlord's claim.

Residential Tenancy Policy Guideline #13 defines co-tenants as two or more tenants who rent the same property under the same tenancy agreement. The Guideline goes on to say that co-tenants are jointly and severally liable for all debts or damages relating to the tenancy. This means the landlord can recover any debts or damages for all or any one of the tenants.

In the case before me the landlord, in accordance with Guideline #13, could file her Application against either one of the two co-tenants, however, as the male tenant moved out of the rental unit during the tenancy and the tenancy continued on with the female tenant taking on the full responsibility of rent, I find the tenancy changed to no longer include the male as co-tenant and the female tenant remains solely responsible for any debt related to this tenancy.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for damage to the rental unit; for compensation for damage or loss; 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, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord provided a copy of a tenancy agreement signed by the parties on July 25, 2010 for a month to month tenancy beginning on August 1, 2010 for a monthly rent of \$2,150.00 due on the 1<sup>st</sup> of each month with a security deposit of \$1,075.00 and a pet damage deposit of \$300.00 paid. The parties agree the tenant vacated the property on September 2, 2012. The parties agree the tenant owes the landlord \$181.26 for a water utility bill submitted by the landlord into evidence.

The landlord submits that she had obtained an order of possession and a monetary order, based on a 10 Day Notice to End Tenancy with an effective date of August 21, 2012, against the tenant for unpaid rent for the month of August 2012 and that the tenant had agreed to allow the landlord to retain the security deposit and pet damage deposit to contribute to the amount of rent owed for that period.

The landlord acknowledges that she did not complete a condition inspection prior to the start of the tenancy but has provided several photographs showing the condition of the rental unit and residential property at the end of the tenancy.

The landlord submits that as a result of the tenant's failure to vacate the property before the effective date of the 10 Day Notice and before the end of August 2012 and the condition of the rental unit she was unable to re-rent the unit until November 2012. The landlord seeks compensation for the loss of two month's rent for September and October 2012.

The landlord submits that the rental unit required the following repairs:

Description (receipt provided)	Amount
Doors – 3 (includes painting and installation)	\$130.00
Screen replacements (sunroom and kitchen)	\$32.00
Fireplace tile replacement	\$75.00
Light bulb replacement	\$27.00
Garbage dumping	\$300.00
Pressure washing driveway	\$75.00
Furnace filter replacement	\$3.00
Light receptacle	\$3.00
HST	\$77.40
<b>Total</b>	<b>\$722.40</b>

The tenant disagrees with the landlord's claim for the doors because her dogs only pushed on the doors to get to go outside; the landlord's claim is based on damage to the doors from the dogs.

The tenant submits that the couch and microwave shown in the photographs of the yard are hers, the rest of the condition of the yard was like that when she moved in. The landlord's claim, in relation to the yard, is solely for the removal of garbage from the yard and not for clean up. The landlord notes specifically the removal of the couch, microwave, garbage bags with diapers and miscellaneous garbage; and outdoor play set (that the tenant submits she left for anyone to pick up to use); and used oil.

The tenant also disagrees with the landlord's claim for the furnace filter replacements and light bulbs. The tenant submits that the tiles just fell off the fireplace during the tenancy but there is no indication that the tenant ever informed the landlord of this problem or how it occurred. The tenant states she does not know what happened on the driveway. The landlord submits that the garbage on the driveway was leaking and it included several bags of diapers with waste that was leaking through the bags.

The landlord seeks compensation for carpet cleaning in the amount of \$330.40, however the tenant testified that she had had the carpets cleaned 2 months prior to the end of the tenancy but was unable to provide receipts. The landlord has submitted several photographs showing many stains in the carpets throughout the rental unit and testified that the entire rental unit smelled of dog. The tenancy agreement also specifies that the carpet must be professionally cleaned and a copy of a receipt provided to the landlord, prior to the end of the tenancy.

The landlord submits the tenant failed to return keys to the rental unit and as such she had to have the property re-keyed at a cost of \$100.80 (receipt provided).

While the landlord provided testimony on the overall condition of the rental unit that required substantial cleaning she has had not submitted a claim for any costs associated with cleaning the rental unit.

### 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.

As per the testimony of both parties that they agree I find the tenant owes the landlord the full amount claimed for the water utility bill of \$181.26. I also find that based on the tenancy agreement and the tenant's failure to provide the landlord with a copy of a receipt for professional carpet cleaning the tenant owes the landlord \$330.40 for carpet cleaning.

While the landlord had failed to provide evidence of the condition of the rental unit at the start of the tenancy, I find the tenant's testimony, in parts, has confirmed the tenant acknowledged some of the damage resulted during the tenancy.

For example, while the tenant disagrees the doors were damaged she acknowledged that her dogs did exhibit behaviour that would be consistent with causing the damage shown in the landlord's photographs. In addition, in speaking about her efforts to clean the rental unit at the end of the tenancy the tenant acknowledges that she had not complete this cleaning or she had not don't that or that she completed something "to the best of her ability".

As a result this and the photographic evidence of the condition of the rental unit at the end of the tenancy submitted by the landlord I find, based on the balance of probabilities the damage to the rental unit and as claimed by the landlord resulted from the tenant's actions or negligence during the tenancy and the tenant is responsible for compensating the landlord for the repairs in the amount of \$722.40.

I also find, based on the landlord's undisputed testimony, that the tenant is responsible for the costs incurred by the landlord for rekeying of the rental property locks in the amount of \$100.80.

As to lost rent, I accept, based on the tenant's overholding of the rental unit into September 2012 and the condition of the rental unit when she vacated that the landlord was unable to rent the unit for the month of September 2012. However, I am not

satisfied by the landlord's submissions that she would not have been able to rent the unit for the month of October, 2012 or at least for a portion thereof. I find the landlord is entitled only to compensation for the month of September 2012.

### Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$3,534.86** comprised of \$2,150.00 lost revenue; \$722.40 repairs/garbage removal; \$100.80 lock rekey; \$330.40 carpet cleaning; \$181.26 water utility charges and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord 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: March 15, 2013

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Residential Tenancy Branch

