



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MND, MNDC, MNR, MNSD

### Introduction

This hearing was convened in response to applications by the tenant and the landlord.

The tenant's application is seeking orders as follows:

1. Return all or part of double the security deposit; and
2. To recover the cost of filing the application.

The landlord's application is seeking orders as follows:

1. For a monetary order for unpaid utilities;
2. For a monetary order for damages to the unit;
3. For money owed or compensation under the Act;
4. To keep all or part of the security deposit; and
5. To recover the cost of filing the application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

### Issues to be Decided

Is the landlord entitled to a monetary order for unpaid utilities?

Is the landlord entitled to a monetary order for compensation for damages?

Is the landlord entitled to a monetary order money owed or compensation?

Should either party be entitled to the security deposit?

### Background and Evidence

The tenancy began on August 1, 2012. Rent in the amount of \$750.00 was payable on the first of each month. A security deposit of \$375.00 was paid by the tenant. The tenancy ended on January 31, 2013.

The parties agreed a move-in and move-out condition inspection report was completed in accordance with the Act. On the report the tenant's agent disagreed that the carpets and blinds needed to be cleaned.

### The tenant's application

a.	Double the security deposit	\$ 750.00
b.	Filing fee	\$ 50.00
	<b>Total claimed</b>	<b>\$ \$800.00</b>

The tenant testified that they verbally informed the landlord of their forwarding address and the landlord wrote that information down in December 2012. The tenant stated he did not provide their address in writing to the landlord until March 4, 2013.

### Landlord's application

The landlord claims as follows:

a.	Unpaid utilities	\$ 190.17
b.	Carpet cleaning	\$ 80.00
c.	Blind cleaning	\$ 50.00
d.	Cleaning of fridge and stove	\$ 32.00
e.	Replacement of CFL light bulb on patio	\$ 6.00
f.	Filing fee	\$ 50.00
	<b>Total claimed</b>	<b>\$ 408.17</b>

### Unpaid utilities

At the outset of the hearing the tenant agreed that they owed the landlord for unpaid utilities in the amount of \$190.17.

### Carpet cleaning

The landlord testified as a term of the tenancy agreement the tenant is required to have the carpets professionally cleaned at the end of the tenancy. The landlord stated that

they will accept the carpets are professionally cleaned if the tenants use a commercial machine to clean the carpets.

The landlord testified that the tenant was told prior to vacating the unit that they are required to have the carpets cleaned with a commercial machine and because the tenant failed to use a commercial machine they re-cleaned the carpets. The landlord stated there were no signs of any stains on the carpets. The landlord stated they did not pay to rent a machine as they had a commercial machine available. The landlord stated it took approximately 2 hours to retrieve the machine and to clean the carpets. The landlord seeks compensation in the amount of \$80.00.

The tenant testified that they had vacuumed and shampooed the carpets at the end of tenancy and they were in perfect condition and there was no need for the landlord to have the carpets re-cleaned. Filed in evidence are photographs of the carpets.

#### Blind cleaning

The landlord testified that the tenant did not leave the blinds clean at the end of the tenancy. The landlord stated on the move-out condition inspection report the tenant's agent admits the blinds were dusty. The landlord stated there were three blinds and it took her one and a half hours to clean. The landlord seeks compensation for cleaning the blinds in the amount of \$50.00.

The tenant testified that there was minor dust on one blind as a spot was missed. Filed in evidence are photographs of the blinds.

#### Cleaning of fridge and stove

The landlord testified that the tenant was provided instructions at the end of the tenancy on cleaning the appliances. The landlord stated when the appliances were inspected the tenant had not pulled out the appliances to clean their sides and that the floor behind the appliances was left dirty. The landlord stated that the tenant also did not properly clean the stove elements. The landlord stated it took her one and half hours to clean the appliances and the floor. The landlord seeks compensation in the amount of \$32.00. Filed in evidence are photographs of the sides of the stove and fridge. Filed in evidence is a photograph of the floor.

The tenant stated that they did not pull out the appliances to clean as the person who was doing the cleaning was scared that if they moved the appliances that they would cause damage to them as they were so close together. The tenant acknowledges that they should have cleaned the sides and behind the appliances, but stated one and half hours is excessive as they had left the appliance cleaned, except as indicated. Filed in evidence are photographs the inside and outside of the fridge and stove.

### Replacement of CFL light bulb on patio

The landlord testified that the CFL light bulb on the patio was burnt-out at the end of the tenancy. The landlord stated the cost of a new bulb was \$11.47. The landlord stated they are not seeking to recover the full amount of the replacement bulb and seeks to recover a portion in the amount of \$6.00.

The tenant stated that they are agreeable to pay for that portion of the cost of the light bulb.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities.

To prove a loss and have one party pay for the loss requires the claiming 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.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails. In this case, the each party has the burden of proof to prove their claim.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

### The tenant's application

The evidence of the tenant was that they provided their forwarding address verbally to the landlord in December 2012. The tenant stated he did not provide that address in writing until March 4, 2013.

Under section 38(1) of the Act, the landlord must return the security deposit or apply for arbitration within 15 days after the tenancy ends and after the landlord received from the tenant their forwarding address in writing whichever is later.

In this case, the tenant did not provided their forwarding address in writing as the Act requires until March 4, 2013. The landlord applied for arbitration on March 19, 2013. I find the landlord applied within the required time specified in the Act. Therefore, the tenant is not entitled to return of double the security deposit. However, the tenant may be entitled to the return of all or part of the security deposit, should the landlord not be successful with their application.

As the tenant has failed to prove a violation of the Act by the landlord, I find the tenant is not entitled to recover the cost of the filing fee from the landlord.

#### Landlord's application

#### Unpaid utilities

In this case, the tenant agreed that they owed the landlord for unpaid utilities. Therefore, I find the landlord is entitled to compensation for the cost of those utilities in the amount of **\$190.17**.

#### Carpet cleaning

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

Under the Residential Policy Guideline 1, which clarifies the rights and responsibilities of the parties for the premises under the Act, the tenant is generally expected to steam clean or shampoo the carpets if vacating after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet they will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.

While I accept the tenancy agreement provided a term that the tenant must have the carpets professional cleaned. I find that term does not comply with section 37 of the Act, or the Policy Guideline, as there is no requirement for the carpets to be professionally cleaned.

In this case, the tenancy was less than one year. The evidence of both parties was that there were no stains on the carpets at the end of the tenancy. The evidence of the tenant was that they vacuumed and shampooed the carpets. The photographs submitted as evidence support that the tenant left the carpets in a reasonable condition. Therefore, I find the landlord has failed to prove that the tenant has breached the Act. As a result, I dismiss this portion of the landlord's claim.

### Blind cleaning

In this case, the tenant's agent writes on the move-out condition inspection report that they did not agree that the report fairly represent the condition of the blinds. The agent writes the, "draperys have minor dust".

[Reproduced as written.]

Under the Residential Policy Guideline 1, which clarifies the rights and responsibilities of the parties for the premises under the Act, the tenant is expected to leave the internal window coverings clean when they vacate the unit.

While the tenant testified there was minor dust on one spot on the blind that was missed. However, that conflict with the tenant's agents finding on the move-out condition report as it states there was minor dust on the draperies.

Section 21 of the Act states a condition inspection report completed in accordance with this section is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

In this case, the tenant submits photographs, however, as the photographs were taken from a distance, and I am unable to make any finding based on those photographs. As a result, I find that the tenant has failed to prove a preponderance of evidence to the contrary. Therefore, I find the tenant breached the Act, when they failed to clean the dust from the blinds at the end of tenancy.

The landlord seeks compensation in the amount of \$50.00 for cleaning the three blinds, which took one and half hours. I find that amount high as that equals to an amount of \$33.00 per hour. I find compensation at the rate of \$15.00 per hour appropriate. Therefore, I grant the landlord compensation for cleaning the blinds in the amount of **\$22.50**.

### Cleaning of fridge and stove

The parties agreed that the tenant did not pull out the fridge and stove to clean the sides of the appliance or the floor behind as they were concerned of damaging the landlord's property. The photographic evidence support that there was some cleaning required.

The evidence of the landlord was the element also required addition cleaning. However, that claim is not supported by the condition inspection report as the stove elements are not noted on the report. The photographs support that the elements were left reasonably clean. I find the landlord has failed to prove a preponderance of evidence to the contrary.

The tenant acknowledged that they failed to clean the sides of the appliance and floor behind and acknowledged that the landlord should be compensated for having to clean that portion. While I accept the landlord may have spent one and a half hours cleaning, I find that was to bring the appliances to a higher standard than the Act requires. Therefore, I will grant the landlord a nominal award in the amount of **\$15.00**.

Replacement of CFL light bulb on patio

In this case, the tenant has agreed to pay a portion of the cost of having to replace the light bulb. Therefore, I find the landlord is entitled to compensation in the amount of **\$6.00**.

I find that the landlord has established a total monetary claim of **\$283.67** comprised of the above described amounts and the \$50.00 fee paid for this application.

I order that the landlord retain the amount of **\$283.67**, from the security deposit and interest of **\$375.00**, in full satisfaction of the claim. As result, I find the tenant is entitled to a monetary order under section 67 for the balance due of their security deposit of **\$91.33**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court, should the landlord fail to return the balance of the tenant's security deposit.

Conclusion

The landlord and may keep a portion of the security deposit in full satisfaction of the claim and the tenant is granted a formal order for the balance due of their security deposit.

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: June 12, 2013

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Residential Tenancy Branch

