



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, 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 landlord; her agent; and both tenants.

The landlords had submitted a written request on July 12, 2013 seeking to have this matter heard as a cross Application to the tenants' Application which is scheduled to be heard on September 9, 2013 at 3:00 p.m. However the tenants' Application names a different party as the respondent and as such a cross application hearing was not set. The Residential Tenancy Branch (RTB) did not inform the landlords.

The landlord submits that she had provided evidence to the RTB on June 13, 2013 but that she had not served the tenants with this evidence. In fact, there is no evidence on file from either party.

### Issue(s) to be Decided

The issues to be decided are whether the landlords are entitled to a monetary order for damage to the rental unit and to recover the filing fee from the tenants 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 parties agree the tenancy began on November 15, 2012 as a month to month tenancy for a monthly rent of \$850.00 due on the 15<sup>th</sup> of each month with a security deposit of \$425.00 and a pet damage deposit of \$200.00 paid. The tenancy ended on May 11, 2013.

The landlord seeks compensation for carpet cleaning. The landlord submits that the carpet had many stains resulting from pet urine and the tenants failed to clean the carpets. The tenants submit that the stains in the carpet were there when they moved

in and they should not be held responsible for them. The landlord seeks compensation in the amount of \$256.20.

The landlord seeks compensation for repairs and painting. The landlord states that there were three thumb sized holes in the walls that the tenants stated they would fix two of the holes but they did not and as a result the landlord had to fix the holes and paint the two bedrooms with two coats.

The landlord seeks \$247.25 for the supplies to fix the holes and complete the painting. These supplies include putty; mesh tape; paint; and painting equipment. The landlord testified the unit had been last painted in 2009.

The tenants submit that they attempted to return to the property to complete the repairs to two holes from where they had placed a shelf but that the gate to the yard was locked and they could not access the rental unit door while they still had the keys. The landlord testified the gate does not have any form of lock.

The landlord submits that a condition inspection was complete at move in and that although they started a condition inspection at move out it was not complete. The landlord confirmed no condition inspection reports were completed.

### 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.

In relation to the condition of the rental unit, I find that in the absence of a documented move in Condition Inspection Report or other documentary evidence to confirm the condition at the start of the tenancy the landlord can provide no evidence to support that the tenants caused any damage to the rental unit at all.

However, Residential Tenancy Policy Guideline #1 states that tenants may be expected to steam clean or shampoo carpets at the end of a tenancy, regardless of the length of tenancy, if they have pets which were not caged or if they smoke in the unit. Therefore, I find the tenants are responsible for carpet cleaning. As to the value, I find that despite,

having no receipts provided into evidence, the amount claimed by the landlord is reasonable.

In relation to the landlord's claim for repairs and painting, I find that the majority of the costs are related to the painting of the two bedrooms and not related to the minor holes that the landlord identified. I also note, by the landlord's testimony, that the unit was last painted in 2009.

Residential Tenancy Policy Guideline #40 lists the "useful life of building elements". The Guideline states that the useful life of interior painting is 4 years. As such, I find that even if I were to grant the landlord's claim for the painting of the two rooms I would have to discount the amount by 100% to reflect the end of the useful life of the previous paint job.

While I recognize that the tenants acknowledge they did create at least two holes that required repair, based on the description by both parties, the holes were so insignificant that they would have cost a minimal amount to fill the holes with putty and if necessary mesh tape. I therefore dismiss this portion of the landlord's claim.

### Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$281.20** comprised of \$256.20 rent owed and \$25.00 of the \$50.00 fee paid by the landlord for this application because the landlord was only partially successful.

This order must be served on the tenants. If the tenants fail 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: August 29, 2013

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Residential Tenancy Branch

