



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MNSD, MND, FF

### **Introduction**

This hearing was convened in response to cross-applications by the parties for dispute resolution.

The tenant filed on May 21, 2013 pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. An Order for double the security deposit - Section 38
2. An Order to recover the filing fee for this application - Section 72.

The landlord filed on May 28, 2013 pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows, as amended in the hearing by the landlord:

1. A Monetary Order for damages – Section 67
2. A Monetary Order for loss – Section 67
3. An Order to retain the security deposit - Section 38
4. An Order to recover the filing fee for this application (\$50) - Section 72.

Despite the tenant having also filed their own application for dispute resolution to be heard at this time, the tenant did not participate in the conference call hearing. As a result, the tenant's application is preliminarily **dismissed**, without leave to reapply.

The landlord was given full opportunity to be heard, to present evidence and to make submissions.

### **Issue(s) to be Decided**

Is the landlord entitled to the monetary amounts claimed?

### **Background and Evidence**

The tenancy began on May 01, 2004 and ended April 30, 2013. At the outset of the

tenancy the landlord collected a security deposit in the amount of \$697.50 - which the landlord still holds in trust. During the tenancy rent in the amount of \$1629.00 was payable in advance on the first day of each month. At the beginning of the tenancy the parties conducted a mutual move-in inspection and at the end of the tenancy the parties conducted a mutual move-out inspection – both of which were recorded on a condition inspection report (CIR) and signed by the parties. The landlord testified that at the end of the tenancy the CIR reflects that deficiencies were noted and recorded, however, the landlord is not claiming compensation for all deficiencies noted.

The landlord claims the rental unit was new when the tenancy started, other than for some very minor deficiencies as noted in the CIR. The landlord claims the tenant caused damage to the rental unit during the tenancy. Specifically, water stain damage to the carpeting in the second bedroom and adjoining hallway for which they claim \$1393.00 for its replacement. The landlord claims the replacement cost is for carpeting of lesser quality than the original carpet. The landlord testified that any mitigation of this cost should consider that the *good* quality of the original carpeting would have easily endured a life span of 15 years with normal wear and tear, and that for this reason mitigating the residual value of the carpeting should be commensurate with this estimate.

As well the landlord claims \$22.10 for damage to one of the refrigerator shelves. In addition, the landlord testified the tenant did not return one of the access key fobs given to the tenant when they first occupied the unit, as reflected in the landlord's CIR evidence; and, for which the landlord claims compensation for its replacement in the amount of \$47.50.

The landlord claims \$131.88 for their cost to investigate a purported alarm fault, found by their contractor to be attributed to the tenant's own installed smoke detector equipment and not the landlord's equipment. The landlord testified the contractor rectified the issue associated with the tenant's equipment for which the landlord was charged. The landlord seeks re-imbursement for the contractor's charges.

The landlord further claims agreed charges for late payments of rent in the amount of \$25.00 per month. The landlord testified the tenant paid the rent late for the months of October and November 2012, as well as January 2013. The landlord provided proof the tenancy agreement allows for the late payment of rent charges. The landlord claims ancillary registered mail costs in respect to 2 notifications / notices for the unpaid rent in the sum amount of \$17.72. The landlord claims the registered mail cost was entirely caused by the tenant's non-compliance with the tenancy agreement.

The landlord provided photograph and document evidence in support for the majority of their claims.

### **Analysis**

On preponderance of the evidence submitted and the undisputed testimony of the landlord, I find as follows:

If a claim is made by the landlord for damages to property, the normal measure of damage is the cost of repairs or replacement with allowance for depreciation or wear and tear. It must further be emphasized that the landlord must provide sufficient evidence that the costs for which they claim compensation are for conditions beyond reasonable wear and tear, and are the result of the conduct or neglect of the tenant.

I find the landlord's evidence respecting the condition of the bedroom / hallway carpeting in the unit clearly depicts both as subjected to wear and tear and excessive staining as attributed by the landlord. I accept the landlord's claim for replacement of carpeting, and I adjust their claim for carpeting in account of the age and reasonable wear and tear, and the condition of the carpeting at the outset of the tenancy. I accept the landlord's testimony the original carpeting was new at the outset of the tenancy and I further accept the landlord's estimate in respect to the quality and the estimated 15 year life span of the original carpeting, as purported in their evidence from the carpeting contractor's estimate. As a result, I find the landlord is entitled to compensation of **\$557.19** - as reflected by dividing the landlord's claim for carpeting by 15, times the residual number of useful life years of the carpeting following the tenancy of 9 years: [ $\$92.86 \times 6 = \$557.19$ ].

I accept the landlord's evidence respecting late fees and grant their claim in the sum of **\$75.00**. I accept the landlord's evidence respecting replacement for the broken refrigerator shelf and unreturned access key fob and grant these claims in the amounts of **\$22.10** and **\$47.50**, respectively.

I find the landlord has sufficiently proven they incurred a charge to repair or attend to alerting equipment owned and installed by the tenant. As a result, I find the landlord is entitled to re-imbusement for the charge in the claimed amount of **\$131.88**.

**Section 88** of the Act refers to: ***How to give or serve documents generally***. I find that it was available to the landlord to have provided any document or notice required or permitted under the Act via a method which did not require the landlord to incur registered mail costs. As a result, I decline to grant the landlord registered mail costs of \$17.72 in respect to 2 notifications / notices for unpaid rent.

The landlord is further entitled to recover costs of **\$50** for filing this application.

***Calculation for Monetary Order***

Carpeting – replacement - mitigated	\$557.19
Late fees (3)	75.00
Unreturned key fob	47.50
Broken refrigerator shelf	22.10
Electrical contractor charges	131.88
Filing fee	50.00
<i>minus security deposit and interest of \$24.70</i>	<i>-\$722.20</i>
<b>Total Monetary Award for landlord</b>	<b>\$161.47</b>

**Conclusion**

The tenant's application **is dismissed**, without leave to reapply.

**I Order** that the landlord retain the security deposit and accrued interest totalling \$722.20 in partial satisfaction of their claim and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$161.47**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

**This Decision is final and binding on both parties.**

*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 28, 2013

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Residential Tenancy Branch