



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order for unpaid rent, for damage to and cleaning of the rental unit, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified she served the Tenants with the Notice of Hearing and her Application, by sending it by registered mail on July 11, 2013. The registered mail went unclaimed and was returned to the Landlord. The Landlord amended her Application to a lesser amount claimed against the Tenants, in accordance with the rules of procedure, and sent this by registered mail to the Tenants on September 27, 2013. Again, this went unclaimed. The Landlord also sent an email to the Tenants explaining she was claiming against them and testified she used the forwarding address provided by the Tenants in a text message from them. Under the Act registered mail is deemed served five days after the date of mailing. I find the Tenants have been duly served under the Act. I also note that refusal or neglect to accept registered mail is not a ground for review under the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

Is the Landlord entitled to monetary compensation from the Tenants?

### Background and Evidence

This tenancy began on October 1, 2012, and had a fixed term of one year, to the end of September 2013. The parties agreed to rent of \$925.00 per month and the Tenants paid a security deposit of \$462.50 and a pet damage deposit of \$227.50 for a pet cat.

Based on the affirmed testimony and the evidence provided by the Landlord, I find that the Tenants were ordered on March 21, 2013, by an Arbitrator of the branch in an earlier proceeding, to vacate the rental unit and pay the Landlord rent that was owed. I have referenced the file number for the earlier proceeding on the cover page of this decision.

The Tenants vacated the property in early June of 2013, however, they did not return the keys to the Landlord until June 24, 2013. The Landlord is claiming she has suffered substantial costs to clean and repair the rental unit due to the condition it was left in by the Tenants.

The Landlord claims for unpaid rent for April and May of 2013, plus two days for June, when the Tenants were still in the rental unit, in the amount of \$1,911.66 (2 months + 2 days as  $2 \times \$925.00 + 2 \times \$30.83 = \$1,911.66$ )

The Landlord was able to find a different renter who began a tenancy on August 1, 2013. The Landlord claims the rental unit could not be rented for July, due to the condition it was left in by the Tenants. The Landlord claims for the balance of June rent and for the month of July in the amount of \$1,788.34 (2 months at \$925.00 less two days \$61.60).

The Landlord claims the Tenants did not properly clean the rental unit before they vacated the rental unit and there was damage to the rental unit.

The Landlord testified that the Tenants had more than one cat in the rental unit and one of the cats had a litter of kittens. The Landlord alleges that the cats or kittens urinated on the carpet in the rental unit and urinated in the laundry room, damaging the wall and causing an odour. The Landlord testified that she was not able to show the rental unit to prospective renters due to the strong smell of cat urine in the rental unit, until this was repaired in July.

In emails sent to the Landlord and supplied in evidence by the Landlord, the Tenants claim they did not notice any cat odour in the rental unit. They deny the cats harmed

the carpet or the laundry room. The Tenants entered the rental unit on or about June 24, 2013, and allege they did not smell any cat urine. At this time they returned the keys to a painter working in the rental unit.

The Landlord testified she initially had the carpets cleaned because the Tenants did not do this as required under the tenancy agreement, and then she had to use additional chemicals in a second treatment; however, this treatment still did not remove the cat odour. The Landlord claims \$157.50 for carpet cleaning and \$60.04 for the additional odour treatment.

The Landlord testified she had to have the carpet in the living room removed along with the underlay. A special treatment for the odour had to be applied to the floor under the underlay and carpet. The Landlord claims \$1,188.60 for the carpet replacement. The Landlord testified that the carpet was four years old. The invoice from the carpet company indicates the floor may have to be sealed due to the cat odour.

The Landlord claims the laundry room had to be cleaned and sanitized due to the cat urine. In evidence the Landlord supplied a statement from the repair person who did the work in the laundry room. The worker explains he had to remove the washer and dryer, and he then removed approximately 22 feet of baseboards. The worker writes that there was cat residue on the back of the baseboards and that it had penetrated into the 2 x 4 bottom plate of the wall. The worker explains he removed the linoleum and scrapped the floor, then applied a spray to kill the odour to the perimeter and sealed the floor. The invoice is for \$262.50 and the Landlord claims this amount from the Tenants.

The Landlord claims the Tenants did not clean the stove, dishwasher, fridge or cupboards to a reasonable standard. The Landlord testified the two bathrooms in the rental unit required cleaning in the sink and bathtub area and that window blinds and ledges had not been cleaned. The Landlord testified the Tenants did a bit of vacuuming; however, when she attended the rental unit the Tenants' vacuum cleaner was not working. The Landlord claims \$136.00 for this cleaning.

a.	Unpaid rent for April, May, and two days in June	\$1,911.66
b.	Loss of rent, balance of June and for July	\$1,788.34
c.	Carpet replacement	\$1,188.60
d.	Carpet cleaning and treatment	\$217.54
e.	Laundry room	\$262.50
f.	General cleaning	\$136.00
g.	Filing fee	\$100.00
	<b>Total claimed (see below for reduced amount)</b>	<b>\$5,604.64*</b>

\*In her amended application, the Landlord does not claim for the carpet cleaning or the general cleaning of the rental unit, and has reduced the amount claims for carpet replacement, sanitization and repairs to the laundry room to \$1,511.14. Therefore, the total amount claimed against the Tenants in the Landlord's amended Application is **\$5,211.14**.

In support of the above claims the Landlord has provided invoices, the tenancy agreement, condition inspection reports, the decision and orders from the first hearing between the parties, and various correspondences between the parties.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find the Tenants have breached section 26 of the Act (and their tenancy agreement) by failing to pay rent when due, and have breached section 37 of the Act (and their tenancy agreement), by failing to return the rental unit to the Landlord in a reasonably clean state and undamaged, and have breached the tenancy agreement and section 45 of the Act by ending a fixed term tenancy agreement without authority under the Act to do so.

I do not accept the damages done by the Tenants are normal wear and tear. I accept the evidence of the worker who repaired the laundry room that the cats or the kittens had urinated in the laundry room. I also accept the undisputed testimony of the Landlord that the cats or kittens had urinated on the carpet and caused damage to the carpet, and caused an odor of cat urine in the rental unit.

I further accept the evidence of the Landlord that due to the condition the rental unit was left in by the Tenants, and the cleaning and repairs that were required, that she was unable to show the rental unit to prospective renters until July of 2013. I find the Landlord mitigated her losses reasonably and re-rented the suite for August 1, 2013.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Based on the testimony, evidence, and a balance of probabilities, I find that the Landlord has established claims for unpaid rent and for loss of rent in the amount of **\$3,700.00** for the periods set out above.

I also find the Tenants damaged the carpet in the rental unit. However, the Landlord is only entitled to the depreciated value of the carpet. Under policy guideline 40 to the Act the useful life of carpet is 10 years. As the carpet was four years old at the time of

replacement, I allow the Landlord 60% amounting to **\$713.16** for the remaining value of the carpet. I also allow the Landlord **\$322.54** (as claimed in the reduced application) for the balance of the cleaning and repairs to the laundry room, and the **\$100.00** filing fee for the Application.

Therefore, I find that the Landlord has established a total monetary claim of **\$4,835.70**, comprised of the above described amounts and the fee paid for this application.

I order that the Landlord may retain the deposits held of **\$690.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$4,145.70**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

### Conclusion

I find the Tenants breached the Act, and their tenancy agreement, by failing to pay rent when due, failing to return the rental unit to the Landlord in a reasonably clean and undamaged state, and breaching a fixed term tenancy agreement without authority to do so. I find these breaches caused the Landlord to suffer a loss of rent and to incur costs for cleaning and repairing. The Landlord is allowed to keep the deposits paid and is granted a monetary order for the balance due of \$4,145.70, as described above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 16, 2013

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Residential Tenancy Branch