



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

*MND, MNSD, MNDC, FF*

### **Introduction**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act*, for a monetary order for loss of income, for the cost of cleaning, painting, repairs and for the recovery of the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the claim. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to a monetary order for loss of income, for the cost of cleaning, painting, repairs and for the recovery of the filing fee?

### **Background and Evidence**

The tenancy started in February 2010 and ended on February 28, 2013. The monthly rent was \$1,050.00 payable on the first of each month. Prior to moving in the tenant paid a security and pet deposit of \$600.00. The rental unit is approximately 50 years old and was bought by the landlord in 1994. The landlord stated that the unit was painted and carpeted six years ago.

The landlord stated that the tenant left the unit in an uninhabitable condition. There was pet feces and urine everywhere and the odour was overpowering. The landlord had to remove and dispose of several items that were contaminated with pet waste. The landlord also had to have the unit cleaned at a cost of \$480.00 which included 16 hours of cleaning. The landlord stated that despite hiring a professional carpet cleaning company to work on cleaning the carpets, the unit could not be rid of the odour. The landlord advertised the availability of the unit in March 2013 but was unable to find a tenant due to the odour.

The landlord has provided estimates for painting, replacing the flooring and sealing the floors to remove the odour. The landlord stated that he had not incurred these costs yet as he was not in a financial position to do so. Since the unit has not been restored to a condition, it can be lived in; the unit remained vacant since the end of tenancy. As of the month of this hearing, the landlord had not re-rented the unit. The landlord is claiming loss of income for nine months and the cost of utilities for these months.

The tenant agreed to some of the claims made by the landlord but stated that she was not responsible for the loss of income he suffered and some of the costs he claimed for printing photographs. The tenant also pointed out that the landlord had filed estimates and not proof of having incurred some of the costs that he was claiming.

The landlord is claiming the following:

1.	Painting	\$3,071.25
2.	Replace carpet	\$4,335.00
3.	Seal floor	\$350.42
4.	General cleaning	\$480.00
5.	General repair	\$390.00
6.	Carpet cleaning	\$864.35
7.	Truck rental and labor	\$565.09
8.	Miscellaneous purchase	\$279.46
9.	Replace items	\$839.00
10.	Loss of income – March to November 2013	\$10,740.00
11.	Preparing evidence, taking photographs	\$200.00
12.	Fix door	\$80.00
13.	Utilities	\$291.89
10.	Filing fee and service of documents	\$175.00
	<b>Total</b>	<b>\$22,661.46</b>

### **Analysis**

Section 40 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. I will use this guideline to assess the remainder of the useful life of the painting and the flooring. As per this policy, the useful life of interior painting is four years and the useful life of flooring is ten years. The landlord renovated the rental unit six years ago and therefore by the end of the tenancy, the painting had outlived its useful life while the flooring had four years of useful life left. Accordingly, the landlord's claim for \$3,071.25 for painting is dismissed.

The landlord testified that he had not replaced the carpet or sealed the floor and has not yet incurred the expenses claimed by him. The landlord has filed estimates for the cost of doing these jobs. Since the landlord has not replaced the carpet and sealed the floor nine months after the tenancy ended, I dismiss his claim for the cost of doing so.

The landlord filed photographs that depict the condition of the unit at the end of tenancy. Based on the photographs, I find that the tenant left the unit in a very dirty condition and therefore, I award the landlord his claim of \$480.00 for cleaning.

The tenant agreed to cover the cost of general repair in the amount of \$390.00, truck rental and labour in the amount of \$565.09 and carpet cleaning in the amount of \$864.35. Accordingly, I award the landlord these amounts.

The landlord has made a claim for \$279.46 for the purchase of various items. These items include purchase of toner to print photographs (\$179.16), a floor register (\$10.84), a switch plate (\$3.36), gas for vehicle (\$29.10) and dumping fees (57.00).

The legislation does not permit me to award any litigation related costs other than the filing fee. For this reason, the cost of toner is dismissed. I find that the landlord is entitled to the cost of purchase of a floor register, switch plate and dumping fees. The landlord chooses to run his business at a distance from his residence and therefore the cost of commuting is the cost of doing business and not an item that the tenant is responsible for. Accordingly, I dismiss the landlord's claim for gas.

The landlord has established a claim of \$71.20 for the above items.

The landlord has made a claim of \$839.00 to replace items which include blinds, carbon monoxide alarms, doors, light fixtures and locks. The landlord has not yet replaced these items and has not filed adequate evidence to support this claim. Therefore I dismiss this claim.

The landlord stated that due to the condition of the unit it has not rented for nine months. The landlord stated that he does not have the finances to fix the unit and was waiting to be awarded the same. The landlord did advertise the availability of the unit in March and April 2013, but was unsuccessful in finding a tenant.

Section 3 of the *Residential Tenancy Policy Guideline* states that if the rental unit is unrentable due to damage caused by the tenant, the landlord is entitled to claim damages for loss of rent. The landlord is required to mitigate the loss by completing the repairs in a timely manner.

Based on the testimony of the landlord and the dates of the receipts filed into evidence, I find that the landlord made attempts to clean the rental unit and find a tenant.

Therefore I award the landlord the loss of income he suffered in the first month after the tenancy ended. The landlord ceased the restoration of the unit shortly after the tenancy ended and as of the date of the hearing, has not rerented the unit due to the odour present inside the unit. I find that after March 2013, the landlord did not make efforts to mitigate his losses and accordingly the landlord's claim for loss of income after March 2013 is dismissed.

The landlord has claimed \$200.00 for his time spent preparing evidence and taking photographs and \$75.00 for service of documents. As mentioned above, the legislation does not permit me to award any litigation related costs other than the filing fee. Accordingly, this claim is dismissed.

The tenant agreed to cover the cost of fixing the door in the amount of \$80.00.

The landlord has claimed \$291.89 for the cost of utilities for the period of March to October 2013. I award the landlord \$36.48 which is a prorated amount to cover the cost of utilities for March 2013.

Since the landlord has proven a portion of his claim, I award the landlord the filing fee of \$100.00.

Overall the landlord has established a claim as follows:

1.	Painting	\$0.00
2.	Replace carpet	\$0.00
3.	Seal floor	\$0.00
4.	General cleaning	\$480.00
5.	General repair	\$390.00
6.	Carpet cleaning	\$864.35
7.	Truck rental and labor	\$565.09
8.	Miscellaneous purchase	\$71.20
9.	Replace items	\$0.00
10.	Loss of income – March to November 2013	\$1,050.00
11.	Preparing evidence, taking photographs	\$0.00
12.	Fix door	\$80.00
13.	Utilities	\$36.48
10.	Filing fee and service of documents	\$100.00
	<b>Total</b>	<b>\$3,637.12</b>

I order that the landlord retain the security deposit of \$600.00, in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$3,037.12. This order may be filed in the Small Claims Court and enforced as an order of that Court.

**Conclusion**

I grant the landlord a monetary order in the amount of **\$3,037.12**.

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: November 20, 2013

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Residential Tenancy Branch

