



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes      OP MNR MNSD FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. Both parties attended the hearing and had an opportunity to be heard.

At the outset of the hearing the landlord advised that an order of possession was no longer required because the tenants have already vacated the unit.

Before I continue, I want to apologize to the parties for the delay in rendering this decision. I was sick for a large part of December and this affected my ability to complete all my decisions in a timely manner. This decision was half written when I fell ill.

### Issues

Is the landlord entitled to the requested orders?

### Background and Evidence

This tenancy began on August 17, 2013 and ended on October 14, 2013. The rent was \$1150 per month plus utilities (gas and hydro). A security deposit of \$575 was paid at the start of the tenancy. On October 2, 2013 the tenants were served with a Notice to End Tenancy for non-payment of rent. The tenants did not pay the outstanding rent but chose rather to move out of the unit. A copy of the move-in / move-out reports was submitted but the tenants did not sign the move-out portion of the report. The move-out report is only signed by the landlord in the presence of a witness.

Once the tenants moved out, the landlord testified that he immediately began advertising the unit. The landlord was able to re-rent it for November 15, 2013.

The landlord claims that in addition to not paying the rent for October, the tenants did not properly clean the unit upon move-out and that there was damage to some of the window blinds.

For their part, the tenants claim that the rental unit was not “fit” for them and that when they got to the rental unit it was not as clean as it had looked in the pictures. The tenants claim that the unit smelled and that they never even unpacked their things.

### Analysis

The landlord has made a monetary claim against the tenants comprised of the following items:

Unpaid rent – October 2013	\$1150
Unpaid rent - Nov 1 – 14	\$536.62
Fortis bill – October 2013	\$35
Carpet cleaning	\$110
General cleaning	\$50
Broken blind	\$56.00
Registered mail	\$20.66
Filing fee	\$50
<b>TOTAL</b>	<b>\$2008.28</b>

I shall deal with each portion of the claim in turn.

Unpaid rent October (\$1150) – The landlord has claimed rent for October on the basis that the tenants were living there and the rent was due on October 1<sup>st</sup>. The tenants did vacate on October 14<sup>th</sup> but that does not change the fact that the rent was due in full in advance on the 1<sup>st</sup> of the month. It is also irrelevant that the tenants say they did not like the unit. ***I find that the landlord has established this portion of the claim.***

Unpaid rent November (\$536.62) – The landlord was initially claiming rent for the entire rent for November but managed to find tenants to move in for November 15<sup>th</sup>. The landlord still claims that the tenants are liable for the first half of November’s rent. I agree with the landlord. In a month to month tenancy, if the tenancy is ended by the landlord for non-payment of rent, the landlord may recover any loss of rent suffered for the next month as a notice given by the tenant during the month would not end the tenancy until the end of the subsequent month. The tenants are actually fortunate that the landlord was able to mitigate his loss for the month of November, otherwise they would have been liable for the whole amount. ***I find that the landlord has established this portion of the claim.***

Fortis Bill (\$35) – ***At the hearing the tenants agreed that they would pay this Fortis bill.***

Carpet cleaning (\$110) – The landlord claims that he had to clean the carpeting in the rental unit after the tenants left. In support of this claim, the landlord submitted one photo and an invoice from Red Squirrel carpet cleaning. As was pointed out by the tenants at the hearing, the photo of the carpet is an extreme close-up of two small stains that appear to be less than a centimeter in size. There are no wide shots or any indication that the carpet was left very dirty. Generally, at the end of a tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. In addition, where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of the tenancy. In the present case I find that there is not enough evidence before me to find that the tenants did any deliberate or careless staining of the carpet or that the carpet was so dirty after only two months living there that the tenants should be held liable for the carpet cleaning. ***I dismiss this portion of the landlord's claim.***

General cleaning (\$50.00) – The landlord claims that the rental unit required general cleaning mainly to the stove, windows, floors and fridge. The tenants dispute this claim in its entirety. The tenants claim that they cleaned the unit for eight hours and that the only thing that they agree they missed was the ash in the stove that was left over from the oven's self-cleaning mechanism. Indeed the only visual evidence submitted by the landlord in support of this portion of the claim is a photo of the ashes left in the oven. The tenants also claim that the unit was not properly cleaned when they moved in and point to the move-in report (which was signed by both parties) which states that several areas of the unit were "dusty" at the outset. In the result, I find that on balance there is insufficient evidence before me to find that the tenants are liable for the landlord's cleaning charges. I am only able to say for sure that the tenants failed to wipe out the ashes after the oven had finished self-cleaning and that the unit may have been left as "dusty" as it was when the tenants moved in. ***I dismiss this portion of the landlord's claim.***

Broken blinds (\$56) – The landlord claims that the tenants damaged some of the vertical blinds in the unit which had just been installed two days before the tenants moved in. In support of this claim, the landlord has provided a photo of the damaged blinds and receipts from Walmart itemizing the vertical blinds – the first dated August 16, 2013 and the second dated November 7, 2013. The blinds were apparently located in the dining room. The landlord pointed out at the hearing that the first receipt is dated just two days before the tenants moved in and is therefore strong proof that they were damaged by the tenants. For their part the tenants stated at the hearing that they "did not notice the broken blinds". On balance, having considered the evidence before me, ***I find that the landlord has proved this portion of the claim.***

Registered mail (\$20.66) – The landlord has claimed the cost of serving the tenants by way of registered mail. This is a cost of bringing the claim and the Act does not

authorize me to award such claims. The only cost of bringing the claim that I am authorized to award is the filing fee. ***I therefore dismiss this portion of the claim.***

Filing fee (\$50) – The landlord has requested recovery of the filing fee. Given that the outcome of this claim is somewhat split I find that it is reasonable that the parties share the cost of this application. ***I therefore grant the landlord \$25.00 towards the filing fee.***

### Conclusion

I find that the landlord has established a total monetary claim of \$1802.62 comprised of items set forth above. I therefore order that the landlord retain the deposit in the amount of \$575 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1227.62. This order may be filed in the Small Claims Court and 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: January 13, 2014

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Residential Tenancy Branch

