



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Devon Properties Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND MNSD MNDC FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

The landlord participated in the teleconference hearing, but the tenant did not call into the hearing. The landlord submitted evidence that they served the tenant with the application for dispute resolution and notice of hearing by registered mail sent on January 28, 2014. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I found that the tenant was deemed served with notice of the hearing on February 2, 2014, and I proceeded with the hearing in the absence of the tenant.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

### Background and Evidence

The tenancy began on March 1, 2013 as a fixed-term tenancy to end on February 28, 2014, with rent payable in advance on the first day of each month. The tenancy agreement contains a clause indicating that if the tenant ends the tenancy before the end of the fixed term, the tenant must pay \$500 in liquidated damages. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$350.

The landlord's evidence was that on January 17, 2014 the landlord gave the tenant notice that he was vacating the unit by January 31, 2014. On January 24, 2014 the landlord found in their rental office the tenant's returned keys and forwarding address in writing. On that date the manager entered the rental unit and found that the unit was not

clean. The manager stated that the unit required cleaning and carpet cleaning, and the drapes also required cleaning.

The landlord has claimed \$97 for suite cleaning; \$78.75 for carpet cleaning; \$32 for drapes cleaning; and \$500 for liquidated damages.

In support of their claim, the landlord submitted evidence including the following:

- a copy of a residential tenancy agreement, signed by the tenant on May 27, 2013 and by the landlord on May 28, 2103, indicating the following:
  - a fixed term from March 1, 2103 to February 28, 2014;
  - monthly rent due on the first of each month;
  - a liquidated damages clause in the amount of \$500;
  - confirmation that the tenant paid a security deposit of \$350;
- a copy of the tenant's notice to vacate, dated January 17, 2014;
- a copy of the tenant's forwarding address in writing;
- a move-out inspection report filled out by the landlord indicating the unclean condition of the rental unit at the end of the tenancy; and
- a copy of the Landlord's Application for Dispute Resolution, filed January 27, 2014, in which the landlord set out the details of their claim.

### Analysis

I accept the landlord's evidence that the tenant did not clean the unit upon vacating, and I therefore find that the landlord is entitled to the amounts claimed for cleaning, carpet cleaning and cleaning of drapes.

The landlord did not provide any evidence to indicate that the liquidated damages amount was a genuine pre-estimate of the costs of re-renting, rather than a penalty. I therefore find that the landlord is not entitled to the amount claimed for liquidated damages, and I dismiss this portion of their claim.

As the landlord's claim was partially successful, I find they are entitled to recovery of the \$50 filing fee for the cost of their application.

Conclusion

The landlord is entitled to \$257.75. I order that the landlord retain this amount from the security deposit in full compensation of their claim. I grant the an order under section 67 for the balance of the security deposit, in the amount of \$92.25. 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: May 20, 2014

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Residential Tenancy Branch

