



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LOCKE PROPERTY MANAGEMENT LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes MNDC, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order for compensation under the Act and the tenancy agreement, 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 Agents for 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 Agents testified they served the Notice of Hearing and the Application and evidence on the Tenant by sending it registered mail, on June 24, 2014, to the forwarding address supplied by the Tenant. Under the Act the Tenant is deemed served with these documents five days after mailing. I find the Tenant has been duly served. 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 Tenant?

### Background and Evidence

This tenancy began on February 1, 2008, with the parties entering into a written tenancy agreement. The Tenant paid the Landlord a security deposit of \$300.00 at the outset of the tenancy.

On May 2, 2014, the Tenant gave the Landlord a Notice to End Tenancy to be effective May 31, 2014.

The Tenant vacated the property, however, the Landlord has incurred costs to clean and repair the rental unit due to the condition it was left in by the Tenant and claims for these in this Application.

The Landlord claims \$248.98 for cleaning the rental unit, including the fridge, stove, windows, cupboards and floors. An invoice itemizing the cleaning and charges has been supplied by the Landlord in evidence.

The Landlord claims \$26.51 for repairing the patio screen door. An invoice itemizing the repairs has been supplied by the Landlord in evidence.

The Landlord claims \$84.00 for carpet cleaning. An invoice itemizing the cleaning has been supplied by the Landlord in evidence.

The Landlord further claims \$50.00 for the filing fee for the Application.

The Landlord withdrew their claim for unpaid hydro. The cost of the registered mail is not awarded, as it is a cost the Landlord incurs to prove service and is not compensable under the Act.

The Landlord has supplied copies of the tenancy agreement, the incoming and outgoing condition inspection reports, and the invoices as described above.

### Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities.

Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,

4. That the party making the application did whatever was reasonable to minimize the damage or loss.

In this instance, the burden of proof is on the Landlord to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenant. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord took reasonable steps to minimize the damage or losses that were incurred.

Based on all of the above, the undisputed evidence and testimony, and on a balance of probabilities, I find as follows.

I find the Tenant is in breach of section 37 of the Act by failing to return the rental unit to the Landlord in reasonably clean and undamaged condition. I find the Tenant did not clean the unit, or make necessary repairs to the screen door, or clean the carpets and this has caused losses to the Landlord. I also find the Landlord minimized the losses as required.

Section 7 of the Act states:

(1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

[Reproduced as written.]

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.

[Reproduced as written.]

Therefore, I allow the Landlord **\$445.49** for the claims as described above and the \$50.00 fee paid for this application.

I order that the Landlords retain the deposit and interest of **\$304.12** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$141.37**.

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

### Conclusion

The Tenant is in breach of section 37 of the Act by failing to return the rental unit to the Landlord in a reasonably clean and undamaged condition.

The Landlord has established a total monetary claim of \$445.49, may keep the deposit and interest of \$304.12 in partial satisfaction of the claim, and is granted a monetary order for the balance due of \$141.37.

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: November 06, 2014.

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Residential Tenancy Branch

