



# 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, MNDC, MNSD, FF

### Introduction

This is an application filed by the landlord for a monetary order for damage to the unit, site or property, for money owed or compensation for damage or loss, to keep all or part of the security deposit and recovery of the filing fee.

The landlord attended the hearing by conference call and gave undisputed testimony. The tenant did not attend or submit any documentary evidence. The landlord states that the tenant was served with the notice of hearing package by Canada Post Registered Mail on August 15, 2014 to the tenant's forwarding address as provided in the landlord's information sheet received from the tenant.

The landlord also stated that the submitted documentary evidence was also sent to the tenant's forwarding address in writing on January 16, 2015 by Canada Post Registered Mail.

The landlord has provided in his direct testimony the Customer Receipt Tracking numbers for both packages and states that an online search shows that the packages were received by the tenant.

During the hearing the landlord clarified that the monetary claim be adjusted to account for the paid invoices for the key replacement for \$68.39 and \$99.75 for the cost of carpet cleaning, totalling, \$168.14.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order?  
Is the landlord entitled to retain the security deposit?

### Background and Evidence

This tenancy began on May 7, 2014 on fixed term tenancy ending on May 31, 2015 and then thereafter on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$1,100.00 payable on the 1<sup>st</sup> of each month and a security deposit of \$500.00 was paid on May 5, 2014.

The landlord seeks an amended monetary claim of \$668.14 which consists of \$68.39 for the cost of replacing keys, \$99.75 for the cost of carpet cleaning and \$500.00 for recovery of liquidated damages as the tenant prematurely ended the tenancy before the end of the fixed term.

The landlord states that the tenant gave notice in writing to end the tenancy on June 30, 2014 in a letter to vacate the rental unit on July 31, 2014. The landlord has provided a copy of the letter signed by the tenant. The landlord states that he completed a condition inspection report for the move-out on August 1, 2014 without the tenant. The report shows that the tenant left the carpet stained requiring cleaning and 3 keys for the rental property which were not returned. The landlord also states that upon notice from the tenant, that landlord immediately made efforts to re-rent the unit with advertising and showings.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

The landlord has provided a copy of the signed tenancy agreement which provides in section 5, liquidated damages of \$500.00 if the tenant ends the fixed term tenancy before the end of the term.

The landlord has provided undisputed testimony that the tenant failed to return the 3 keys to the rental unit and left the rental unit with stained carpeting requiring cleaning. The landlord has provided copies of the paid invoices for both of these costs incurred.

I accept the undisputed evidence of the landlord and find that the direct testimony and submitted documentary evidence has established that the tenant breached the fixed term tenancy by ending it prematurely on July 31, 2014 instead of May 31, 2015. The landlord has provided undisputed testimony that the tenant failed to return the keys to the rental property requiring re-keying costs totalling, \$68.39 based upon the submitted invoice. I also find that the landlord has provided sufficient evidence to satisfy me that the tenant left the rental unit with stained carpeting requiring cleaning for a cost of \$99.75 based upon the submitted invoice.

The landlord has established a total monetary claim of \$668.14. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$500.00 security deposit in partial satisfaction of the claim and I grant a monetary order under section 67 for the balance due of \$218.14. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlord is granted a monetary order for \$218.14.  
The landlord may retain the security deposit.

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: March 05, 2015

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Residential Tenancy Branch

