



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **INTERIM DECISION**

Dispute Codes                      MNDC, MNSD (Tenants' Application)  
   MNSD, MNDC, MND, FF (Landlords' Application)

### Introduction

This hearing reconvened as a result of cross applications in which the parties each sought monetary orders against the other. The hearing occurred on April 15, 2015 and June 11, 2015 and continued on August 17, 2015.

Both parties appeared at the April 15, 2015 and June 11, 2015 hearings. The Tenant did not appear at the August 17, 2015 hearing.

As the Tenant did not attend the August 17, 2015 hearing, I dismiss her claim.

### Issue to be Decided

Are the Landlords entitled to monetary compensation from the Tenant?

### Background and Evidence

The Tenant testified that she moved into the rental unit with the original tenant, B.L. who had occupied the rental unit since February 2013. When she moved in, on October 1, 2013, the subject tenancy began. The Landlords amended the move in condition inspection report on October 1, 2013 and the Tenant initialled the changes. The Tenant paid a security deposit in the amount of \$850.00 and a pet damage deposit in the amount of \$850.00. At the time of the hearing, the Landlords had returned the pet damage deposit such that he held only \$850.00 in trust for the security deposit.

The Tenancy ended on August 31, 2014. Introduced in evidence were copies of the move in and move out condition inspection reports.

The Tenant vacated the property, however, the Landlords claimed they incurred costs to clean and repair the rental unit due to the condition it was left in by the Tenant. The Landlord, M.C., gave undisputed testimony, introduced in evidence photos of the rental unit as well as receipts for the amounts claimed.

While the Tenant was not at the August 17, 2015 hearing, and did not therefore dispute the Landlord's testimony she did address the Landlord's documentary evidence during the April 15, 2015 hearing. At that hearing, the Tenant testified that she "didn't do anything on purpose" and that the amounts claimed by the Landlords were excessive.

The Landlords claim as follows:

Cost to clean and repair damage caused by Tenant's vehicle leak on the rental unit driveway	\$105.00
Replacement of kitchen soap dispenser	\$159.66
Repair of stainless steel on the dishwasher	\$175.00
Replacement of the drain stopper and tap in bathroom	\$308.50
Carpet replacement on stairs and landing	\$592.50
Filing fee	\$50.00
<b>Total claimed</b>	<b>\$1,390.66</b>

On August 17, 2015, M.C., testified in response to the Tenant's submission that the amounts claimed were excessive. Specifically, he stated that he purchased a generic replacement for the kitchen soap dispenser as to purchase a package was more expensive. He also noted that he chose to hire someone to repair the stainless steel rather than simply replace the panel thereby attempting to reduce his costs. He also noted that while he tried to find a replacement bathroom sink stopper, as they are sold as a package with faucets he had no option but to buy a package. He also stated that the friction burns on the stairway carpet were such that they could not be removed. As the carpet on the stairs and the landing matched, he was required to replace both the damaged carpet and the landing.

### 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, as I have dismissed the Tenant's application, the burden of proof is on the Landlords 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 Landlords must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlords took reasonable steps to minimize the damage or losses that were incurred.

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

I accept the undisputed testimony of the Landlords as well as the supporting photographic evidence and receipts and find the Tenant damaged the rental unit as alleged, and did not make necessary repairs to the rental unit at the end of the tenancy. As the Landlords paid to make these repairs, the Tenant's actions and inaction have caused losses to the Landlords.

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.

Section 67 of the 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.

The evidence supports a finding that the Tenant's vehicle leak damaged the rental unit driveway. I find that the Landlords incurred the cost to clean the resulting stain, and that the Tenant is responsible for compensating the Landlords this amount.

I accept M.C.'s undisputed testimony that the Tenant damaged the soap dispenser, the stainless steel on the dishwasher and the drain stopper in the bathroom. The Landlords incurred the cost of replacement and repair, and I find that they made his best efforts to minimize and mitigate this loss.

The evidence indicates that the carpets were not professionally steam cleaned when the Tenant left, as required under the *Act* and the tenancy agreement. I accept the Landlord's testimony that the Tenant's attempt at cleaning the stairway carpets created friction burns, damaged the carpet and necessitated their replacement. I further accept M.C.'s undisputed testimony that the carpet on the stairs and landing matched such that replacing the carpet on the stairs necessitated replacing the carpet on the landing.

In consideration of the above, I award the Landlords the full amount their claim in the amount of **\$1,390.66**.

I order that the Landlords retain the deposit and interest of **\$850.00** in partial satisfaction of the claim and I grant the Landlords an order under section 67 for the balance due of **\$540.66**.

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

#### Conclusion

The Tenant failed to attend the continuation of this hearing on August 17, 2015. Consequently, the Tenant's Application is dismissed in its entirety.

The Landlords established a monetary claim of \$1,390.66. The Landlords may apply the \$850.00 security deposit against this sum and are granted a monetary order for the balance due in the amount of **\$540.66**.

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: August 17, 2015

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Residential Tenancy Branch

