



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PORTE REALTY LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      MNSD, MND, FF

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the "Act"), for a monetary order for damages to the unit and for an order to retain the security deposit in partial satisfaction of the claim.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### **Issues to be Decided**

Is the landlord entitled to monetary compensation for damages?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

### **Background and Evidence**

The parties agreed that the tenancy began on September 15, 2006. Current rent in the amount of \$825.00 was payable on the first of each month. The tenant paid a security deposit of \$372.50. The tenancy ended September 2014.

The landlord claims as follows:

a.	Damage to door and wall	\$242.50
b.	Cleaning & garbage disposal	\$250.00
c.	Filing fee	\$ 50.00
	<b>Total claimed</b>	<b>\$542.50</b>

### Damage to door and wall

At the outset of the hearing the tenant acknowledged that they are responsible for the damage to the wall and the door.

### Cleaning & garbage disposal

The landlord's agent testified that the tenant had help to clean the rental unit; however, the job was not done very well. The agent stated that they had to clean the light fixtures to remove dead bugs, clean dust from the fans, clean the windows inside and out, and they had to do other general cleaning, such as clean the patio. The agent stated that they completed eight hours of work. The landlord seeks to recover the amount of \$200.00.

The landlord's agent testified that the tenant also left two flower pots and furniture on the patio, which they had to pay for disposal. The landlord seeks to recover the amount of \$50.00. Filed in evidence is a photograph of the flower pots, and a bamboo screen. Filed in evidence is a receipt dated May 9, 2015.

The tenant testified that they left the rental unit clean; however, they did not clean the windows, light fixtures or fan.

### Analysis

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

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

How to leave the rental unit at the end of the tenancy is defined in Part 2 of the Act.

### **Leaving the rental unit at the end of a tenancy**

*37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.*

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

Damage to door and wall

The tenant agreed that they are responsible for the damage caused to the door and wall. Therefore, I find the landlord is entitled to recover the amount of **\$242.50**.

Cleaning & garbage disposal

In this case, the tenant acknowledged that they did not clean the windows, light fixture or fans. However, denied any other cleaning was required.

While I am satisfied that the tenant breached the Act, when they failed to clean the above items, I am not satisfied that any further cleaning was required to prove eight hours was a reasonable amount of time as no other photographs were provided.

Further, I am also not satisfied that the record of hours is correct or even if it is related to this tenancy as it is dated May 1, 2015, long after the tenancy ended and it indicated that more photographs would be taken. I also note that the landlord is claiming 2 hours to clean the inside and outside of the windows in a one bedroom apartment, which I find to be an unreasonable amount of time.

I am also not satisfied that the landlord has incurred any cost due to the tenant leaving 2 planters and furniture items, such as the bamboo screen behind. The receipt filed in evidence is dated May 9, 2015, long after the tenancy ended and the receipt is not an official receipt from a third party, it is simply the landlord's agent making a note and signing it.

As a result of the above finding, I find the landlord is entitled to a nominal amount to recognize the tenant breached the Act, when they failed to clean the windows, light fixtures and fans. Therefore, I grant the landlord compensation for two hours of cleaning at the rate of \$25.00 per hour for the total amount of **\$50.00**.

I find that the landlord has established a total monetary claim of **\$342.50** comprised of the above described amounts and the \$50.00 fee paid for this application.

I order that the landlord retain the amount of \$342.50 from the tenant security deposit of **\$384.33** (\$372.50, plus \$11.83 interest) in full satisfaction of the claim and I grant the tenant an order for the balance due of their security deposit in the amount of **\$40.83**.

Should the landlord fail to comply with my order, this order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order and may keep a portion of the security deposit in partial satisfaction of the claim and the tenant is granted a formal order for the balance due of their 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: October 22, 2015

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Residential Tenancy Branch

