



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Langara Gardens Holdings Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND, MNSD, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by two agents for the landlord; the tenant and his agent.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for compensation for repairs and cleaning; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 37,38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord has submitted into evidence a copy of a tenancy agreement signed by the parties on September 26, 2007 for a 1 year fixed term tenancy beginning on November 1, 2007 that converted to a month to month tenancy on November 1, 2008 for a monthly rent of \$1,725.00 due on the 1<sup>st</sup> of each month with a security deposit of \$862.00 and key deposit of \$70.00 a paid.

The parties agree the tenancy ended on or before June 30, 2015 after the tenant had issued a notice to end tenancy.

Both parties had acknowledged during the hearing that the landlord intends, in the future, to re-develop the residential property. The landlord submitted that these plans are just in the policy planning phase and they are still entering into 1 year fixed term tenancies on the property. As such, the physical re-development will not be commencing in the near or immediate future.

The landlord submits that at the end of the tenancy the tenant had failed to have the rental unit cleaned and there was some damage that was beyond regular wear and tear. The landlord also submits the tenant failed to return the keys.

The landlord submits that the keys they provide to all tenants are stamped to be recognizable but that the keys returned by the tenant were not stamped. The landlord testified that they did not try out the keys returned because they were not stamped.

The landlord seeks compensation in the amount of \$250.00 for the replacement keys. In support of this claim the landlord has provided a copy of their own invoice to the tenant. The landlord testified they contract out the key cutting functions to an external supplier but an invoice from this supplier was not submitted.

The landlord submits the tenant chose not to attend the move out condition inspection that had been scheduled for June 30, 2015.

The tenant submits that they had completed a walkthrough of the rental unit on June 27, 2015 with the landlord's agent HO. After this inspection the agent offered to complete the cleaning of the rental unit for a cost of \$400.00 and \$20.00 for garbage disposal. The tenant submits he agreed to hire the agent.

The landlord acknowledges that the agent does offer cleaning outside of her regular role as agent for the landlord.

The tenant submits that on June 29, 2015 they completed another walkthrough and that the agent HO has a pre-filled out move out Condition Inspection Report with a damage assessment of approximately \$1,300.00.

The tenant submits that during this meeting the agent HO contact the landlord's agent JK and it was agreed that if the tenant signed the Condition Inspection Report the assessment would be reduced to \$948.42 or the value of the security deposit and interest. The tenant did not sign the Condition Inspection Report.

The landlord submits that the move out condition inspection was scheduled for June 30, 2015 and that it was completed by the landlord's agent JK but that the tenants did not attend. The landlord submitted that no other inspections were completed. Neither party provided documentary evidence confirming how and when any inspections were scheduled.

I note the Condition Inspection Report completed at the end of the tenancy that was submitted into evidence states that the inspection was completed by agent HO. The document was originally dated June 27, 2015 but this date is crossed out and changed to June 30, 2015. I also note the Report is signed by the agent JK with her signature dated as June 30, 2015.

The landlord makes the following claims for cleaning and repairs completed by both in-house staff and by contracted service providers:

Description	Amount
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Cleaning	\$805.00
Garbage removal	\$120.00
Carpet cleaning	\$175.00
Window cover cleaning	\$168.00
Wall repairs	\$200.00
Carpet stain removal	\$300.00
Replace bathroom sink	\$100.00
Replace cabinet door	\$200.00
Replace countertop	\$575.00
Install showerhead	\$20.00
Install range hood	\$100.00
<b>Total</b>	

In support of these claims the landlord has submitted several photographs and invoices. I note that all the invoices submitted as evidence were invoices from the landlord to the tenant. No invoices were provided from any service providers or suppliers.

The tenant disagrees with the landlord's claims. The tenant submits the landlord had originally suggested their claim would be in the \$1,300.00 including the amounts for cleaning that the landlord's agent HO suggested she would charge the tenant for cleaning the rental unit.

The tenant also submits the landlord was willing to agree to an amount equivalent to the deposits security deposit; key deposit and interest held by the landlord if the tenant agreed to sign the Condition Inspection Report. The tenant submits that it was not until he declined this over that the landlord conducted another inspection and increased their claim to over \$3,000.00.

The tenant also submits that all of the damage claimed by the landlord is nothing more than regular wear and tear, after an 8 year tenancy. In addition the tenant submits that even if he was responsible for any damage to the bathroom/kitchen cabinet doors the "life expectancy" of laminate cabinetry is 8 years; and the "life expectancy" of a bathroom/kitchen laminate countertop is 10 years.

### Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 37 of the *Act* states that when a tenant vacates a rental unit at the end of a tenancy the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear and give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

In regard to the landlord's claim for key replacement, I find that despite the landlord's issuance of easily identifiable keys they testified that the keys returned were not the one's issued they made no attempt to determine if the keys were keys that the tenant had replaced himself or if the keys even worked.

As such, I find the landlord failed to take any steps to mitigate this loss by checking to see if the keys worked or that it was necessary to replace any keys at all. I therefore find the landlord is not entitled to any compensation for key replacement. I dismiss this portion of the landlord's claim.

In regard to the landlord's claim for cleaning I am satisfied the landlord has established the rental unit required cleaning and garbage removal, through their photographic evidence. While I accept the landlord has submitted, into evidence, a copy of the fees they charge including \$35.00 per hour for cleaning I also accept that the landlord's agent HO provided an estimate for cleaning the rental unit in the amount of \$400.00 and \$20.00 for garbage removal.

The landlord as submitted into evidence their own invoice to the tenant charging the tenant for 23 hours of cleaning at \$35.00 per hour and 3 hours of garbage removal at \$40.00 per hour. The landlord testified the cleaning was completed by an outsourced service provider and the garbage removal was completed in-house.

Despite the landlord's explanation that their agent HO does provide cleaning services outside of her role as an agent for the landlord, I find that once the agent indicated to the tenants the cleaning could be completed for an amount of \$400.00 and the garbage removal would be \$20.00 the tenants made a choice not to clean.

I find that it was, at the very least, unclear to the tenant whether the amount of \$420.00 would be the landlord's charge for cleaning based on the landlord's agent HO's assessment of the condition of the rental unit after one of her inspections with the tenant.

Therefore, I find, in the absence of any evidence from the landlord or the landlord's agent HO that the rate quoted to the tenant was an independent quote from a service provider who was not working on behalf of the landlord as opposed to the value that would be charged by the landlord to clean the rental unit that the landlord is restricted in their claim for cleaning and garbage removal to the amounts quoted to the tenants by the landlord's agent HO prior to the end of the tenancy or \$420.00 in total.

I accept the tenants failed to have the carpets and the window coverings cleaned and accept the landlord has established a fair value for these expenses in the amounts of \$175.00 (carpet cleaning) and \$168.00 (window covering cleaning).

I find the landlord has provided no evidence to support an additional claim of \$300.00 for carpet stain removal over and above the standard claim for carpet cleaning. For example, there is no submission from the contracted carpet cleaner that the additional work was required or that the landlord, in fact, paid any service provider for additional stain removal. I dismiss this portion of the landlord's claim.

In regard to the completion of the move out condition inspection, I find, based on the testimony of both parties and a balance of probabilities, the condition inspection was completed on June 29, 2015 by the landlord's agent HO. I find there is no evidence to support the landlord's assertion that the inspection was scheduled on June 30, 2015, such as a Notice of Final Opportunity to Schedule a Condition Inspection.

I also find that once the inspection was completed on June 29, 2015 by an agent for the landlord there was no reason why a second agent for the landlord would have had to complete another inspection. I further find that once it was completed by the landlord's agent HO any changes or alterations made to either the condition or the items the landlord claims for, in terms of damage, in the absence of the tenant or their agent renders the document as unreliable.

As such, I have relied solely on the photographic evidence submitted by the landlord for their claim for damage items. I note the tenant acknowledges responsibility for damage to the bathroom sink and does not dispute this portion of the landlord's claim, in the amount of \$100.00

I find the landlord's photographic evidence supports their claim for damage to the countertop (\$575.00) and cabinet doors (\$200.00), as the damage in the photographs shows damage well beyond reasonable wear and tear. However, in regard to this claim I find the landlord's provision of internal invoices does not provide any indication of the actual costs involved in either replacement.

As such and with consideration for the useful life of these products of 25 years as outlined in Residential Tenancy Policy Guideline #40, I grant the landlord a nominal award of \$250.00 for the replacement of both the countertop and cabinet doors.

I find the photographic evidence does not support the landlord's claim for wall repairs in the amount of \$200.00. I find the photographs show nothing more than reasonable wear and tear. I dismiss this portion of the landlord's claim.

I accept, from the testimony of both parties, the landlord had to replace the shower head at a cost of \$20.00. I find there is no evidence in either the altered Condition Inspection Report or the photographs submitted by the landlord that support their claim for a new range hood. I dismiss this portion of the landlord's claim.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,183.00** comprised of \$400.00 cleaning; \$20.00 garbage removal; \$175.00 carpet cleaning; \$168.00 window covering cleaning; \$100.00 sink replacement; \$250.00 cabinet door and countertop replacement; \$20.00 showerhead replacement and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$878.42 and the key deposit of \$70.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$234.58**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: December 18, 2015

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Residential Tenancy Branch

