



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, MNR, OPL, CNL, MNDC, MNSD, OLC, FF

### Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Tenant applied on September 21, 2015 for:

1. An Order cancelling a notice to end tenancy - Section 49;
2. A Monetary Order for compensation - Section 67;
3. An Order for the return of the security deposit – Section 38;
4. An Order for Landlord’s compliance – Section 62; and
5. An Order to recover the filing fee for this application - Section 72.

The Landlord applied on September 16, 2015 for:

1. An Order of Possession - Section 55;
2. An Order for unpaid rent or utilities - Section 67;
3. An Order to retain the security deposit – Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Parties confirmed that the tenancy has ended and that the issue of possession of the unit is no longer alive. As the tenancy has ended the Tenant’s claim for a cancellation of the notice to end tenancy and the claim for Landlord’s compliance is dismissed. The Landlord’s claim for an order of possession is dismissed.

### Preliminary Matter

The Tenant clarified that the only person on the tenancy agreement is herself and that the other two persons named on the Tenant’s application are her children. As neither child is a party to the tenancy agreement I amend the application to remove their names.

Issue(s) to be Decided

Has the Tenant failed to pay rent?

Is the Tenant entitled to compensation?

Is the Landlord entitled to retain the security deposit?

Are the Parties entitled to recovery of their respective filing fees?

Background and Evidence

The tenancy started on October 1, 2012 and ended on September 3, 2015. Rent of \$1,800.00 was payable monthly on the first day of each month. At the outset of the tenancy the Landlord collected \$900.00 as a security deposit and \$450.00 as a pet deposit. The Parties mutually conducted a move-in condition inspection and completed a report.

The Landlord states that the Parties mutually conducted a move-out inspection. The Landlord states that the condition report was filled out while the Tenant was still in the unit and was given to the Tenant but that the Tenant disagreed with the report and refused to sign it. The Tenant states that no condition report was ever shown to the Tenant and that they just conducted a walkthrough with verbal comments on the condition.

The Landlord states that the Tenant failed to clean the unit and that a cleaner was hired to complete the cleaning. The Landlord claims \$1,200.00 for the cost to clean the unit and the carpets. The Landlord provides a receipt that does not detail the tasks carried out by the cleaner. The Landlord provides 5 photos showing 2 window sills, a doorway and 2 small baseboard areas. The Landlord states that the rental unit is about 1,900 square feet with 3 bedrooms and a den and carpets are in the bedrooms and the family room. The Landlord states that the carpets are 7 years old. The Landlord states that the cleaner charged \$25.00 per hour.

The Tenant states that the unit was completely cleaned including the carpets but that the Landlord was not satisfied. The Tenant states that the rugs are from the 1970's and could not be cleaned to a better state than was done. The Tenant states that while the Tenants still had another 24 hours left to their tenancy the Landlord refused to allow the Tenant to stay in the unit for the remaining time, taking the keys to the unit and telling the Tenant that the Landlord would finish the cleaning. The Tenant states that they did not have any opportunity to do any further cleaning or to take photos of the unit and the Landlord belittled the Tenant during the inspection. The Tenant provides an email dated September 23, 2015 from a person who was a Witness to the state of the unit on move-out.

The Landlord states that the Tenant originally agreed to maintain the lawn so the Landlord provided a lawn mower. The Landlord states that in 2013 the Tenant damaged the lawn mower by hitting a rock and the Tenant agreed to repair the lawn mower if this should occur again. The Landlord states that the same damage occurred in 2015. The Landlord repaired the mower at the time and now claims \$50.00 for the repairs. The Tenant states that there was no agreement for the Tenants to maintain the lawn but that they did the best they could anyways. The Tenant denies damaging the lawn mower and states that it was old and after the Landlord took the lawn mower away it was never returned and the Tenants would on occasion borrow the neighbour's machine.

The Landlord states that the Tenants had an NSF cheque during the tenancy and the Landlord claims \$50.00. The Landlord confirms that nothing in the tenancy agreement provides for late or NSF fees.

The Landlord states that water costs were payable by the Tenant and that there was an outstanding and final bill and claims \$37.00. The Landlord states that a bill for this claim was provided as evidence. The Tenant states that the final water bill of \$39.28 was paid on September 7, 2015.

The Landlord states that prior to signing the tenancy agreement the Tenants agreed to yard clean-up and maintenance by email. The Landlord confirms that there is nothing in the tenancy agreement in relation to this matter. The Landlord claims \$150.00.

The Landlord withdraws the claim for damage to a cedar tree.

The Landlord states that the Tenant damaged the unit and claims \$150.00. The Landlord states that the person who made the repairs detailed those repairs on the invoice however the Landlord did not provide that invoice. The Tenant denies that they left any damages to the unit.

The Tenant claims return of the security and pet deposits. The Tenant also claims compensation for their time in dealing with the dispute.

### Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. Noting that the Landlord's photos only show minor

cleaning tasks for a couple of items, given the Tenant's supported evidence of the state of the unit at move-out, and considering the extraordinary amount being claimed for cleaning costs I find that the Landlord has failed to substantiate that the Tenant left the unit dirty to the extent being claimed. I therefore find that the Landlord has failed to substantiate the costs claimed and I dismiss the claim for cleaning the unit.

Considering that the Landlord did not seek repairs from the Tenant during the tenancy, given that there is no invoice for the repairs and considering that there is no evidence upon which to place any value on the lawn mower I find that the Landlord has failed to substantiate that the Tenant is liable for any loss or for the cost of repairs to the lawnmower. I therefore dismiss this claim.

As nothing the in the tenancy agreement provides for NSF charges I dismiss the claim for \$50.00.

As the only document relevant to water is a notice of overdue water account dated January 28, 2013 in the amount of \$88.46 and considering the Tenant's evidence of the final payment of \$39.28 I find that the Landlord has not substantiated a final amount owed and I dismiss the claim for water.

As the tenancy agreement was signed after the date that the Landlord states an agreement was made for the Tenants to maintain the lawn and as there is no such provision in the written tenancy agreement I find that the Landlord has not substantiated that the Tenant was required to clean and maintain the lawn and I dismiss the claim for \$150.00.

As the Landlord provided no invoice for the claim for damages to the unit, as the damages are only detailed on the invoice and as no copy of this invoice was provided to the Tenant, I find that the Landlord has failed to provide adequate particulars for this claim and I dismiss the claim for \$150.00.

As the Act does not provide for the recovery of any dispute or proceeding costs other than the filing fee, I dismiss the Tenant's claim for the time spent on this dispute.

Although the Tenant states that no condition report was provided to the Tenant at move-out I prefer the Landlord's evidence that the Tenant disagreed with the condition report and refused to sign it. As the Landlord has not been successful with any of its claims in effect the Landlord's application is dismissed in its entirety and I find that the Tenant is entitled to return of the combined security and pet deposit plus zero interest of

**\$1,350.00.** The Tenant is also entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$1,400.00.**

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$1,400.00.** If necessary, this order may be filed in the Small Claims Court and 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: March 29, 2016

---

Residential Tenancy Branch