



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GOODRICH REALTY INC.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND, MNDC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for damage to the rental unit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The parties did not raise any issues with service.

### Issue(s) to be Decided

Is the landlord entitled to a monetary award for damage and losses arising out of this tenancy? Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and testimony, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below.

This tenancy began 1 March 2014 and ended 31 July 2015. Monthly rent in the amount of \$1,600.00 was due on the first. The landlord continues to hold the tenant's security

deposit in the amount of \$800.00 and a transmitter deposit in the amount of \$200.00 (the deposits).

The agent testified that an inspection was completed two or three months before the tenant vacated and at that time the agent noticed that the rental unit was not clean. In particular, the stove was very greasy and the baseboards were very dirty.

On 13 July 2015 the landlord sent a move out check list to the tenant. The tenant was cautioned that cleaning costs would be deducted from the security deposit if the tenant did not comply with the cleaning requirements. The tenant was cautioned that she would not be permitted to complete cleaning after possession transferred.

The agent testified that when the tenant moved out there was a lot of damage to be repaired and cleaning to complete. The agent testified that the rental unit was professionally cleaned by the previous occupants.

The agent testified that she was not surprised when the rental unit was not clean at the end of the tenancy. The agent testified that the tenant asked to come back to clean; however, the agent refused this request as the tenant was given ample warning of the standards to meet.

The agent estimated that it would take six hours of cleaning at \$20.00/h and the cost of repairs. The agent testified that the tenant did not consent to this amount and was not willing to discuss or negotiate. The agent testified that the tenant later agreed to an amount and then revoked her agreement. The agent testified that she was not able to provide receipts to the tenant at the early stage as the amounts were only estimates. The agent testified that at the inspection it was believed that the damage was less than what had actually occurred. The estimates were based on a description—the contractor could not provide actual amounts until he attended on site.

The agent provided photographs that were taken 31 July 2015. The photographs show that the rental unit required more cleaning. The photographs show a hole in a closet door and wall damage.

The agent testified that the claim is just for the landlord's actual out of pocket expenses. The agent testified that the painting was only touch up work and did not involve repainting the entire place. The agent testified that the tenant was only charged for damage that was above regular wear and tear. The agent testified that the actual cost of cleaning was \$350.00.

The tenant testified that the paint was not properly matched at the beginning of the tenancy. The tenant testified that she was told the major issue with cleaning was the windows and blinds. The tenant testified that the ceiling was too high to replace the lightbulbs. The tenant agreed that she may have missed areas in her attempts to clean.

The tenant testified that she did not agree with the costs set out as they were too high. The tenant testified that she asked for receipts but was not provided any.

I was provided with copies of the condition inspection reports completed at the beginning and end of tenancy. The move in inspection report is unremarkable. The move out inspection report notes all of the deficits noted in the agent's testimony.

I was provided with an email dated 14 August 2015 from the landlord to the tenant. The email details estimates for the repairs totaling \$740.00:

Item	Amount
Repair Walls	\$400.00
Repair Doors and Baseboards	250.00
Replace Lightbulbs	90.00
<b>Total Repair Estimate</b>	<b>\$740.00</b>

I was provided with an invoice dated 2 October 2015 in the amount of \$1,848.00. The agent testified that the tenant's portion of this invoice totaled \$1,390.00:

Item	Amount
Repair Walls	\$800.00
Repair Doors and Baseboards	500.00
Replace Lightbulbs	90.00
<b>Total Repair Cost</b>	<b>\$1390.00</b>

The landlord claims for \$1,140.00:

Item	Amount
Cleaning	\$350.00
Repairs	740.00
Filing Fee	50.00
<b>Total Monetary Order Sought</b>	<b>\$1140.00</b>

## Analysis

Subsection 37(2) of the Act specifies that when a tenant vacates a rental unit, the tenant must leave the unit reasonably clean and undamaged except for reasonable wear and tear. *Residential Tenancy Policy Guideline*, “1. Landlord & Tenant – Responsibility for Residential Premises” states:

The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard. The tenant is also generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest. The tenant is not responsible for reasonable wear and tear to the rental unit or site (the premises), or for cleaning to bring the premises to a higher standard than that set out in the [Act] ...

[footnote omitted]

Section 67 of the Act provides that, where an arbitrator has found that damages or loss results from a party not complying with the Act, an arbitrator may determine the amount of that damages or loss and order the wrongdoer to pay compensation to the claimant. The claimant bears the burden of proof. The claimant must show the existence of the damage or loss, and that it stemmed directly from a violation of the agreement or a contravention of the Act by the wrongdoer. If this is established, the claimant must provide evidence of the monetary amount of the damage or loss. The amount of the loss or damage claimed is subject to the claimant’s duty to mitigate or minimize the loss pursuant to subsection 7(2) of the Act.

On the basis of the photographic evidence, inspection report and testimony, I find that the tenant did not comply with the requirement to leave the rental unit reasonably clean at the end of the tenancy and by doing so breached her obligations pursuant to subsection 37(2) of the Act. By breaching subsection 37(2) of the Act, the tenant caused the landlord to incur expenses for cleaning. The agent testified that the cleaning costs incurred were \$350.00. The landlord was proactive in advising the tenant of her obligations to clean and cautioned her about the possible consequences of failing to do so. On the basis of the evidence before me, I find that the landlord has proven that the tenant’s breach of the Act directly caused the landlord a loss totaling \$350.00 and that the landlord is entitled to recover this amount from the tenant.

On the basis of the photographic evidence, inspection report and testimony, I find that the tenant did not comply with the requirement to leave the rental unit undamaged at the end of the tenancy and by doing so breached her obligations pursuant to subsection 37(2) of the Act. By breaching subsection 37(2) of the Act, the tenant caused the

landlord to incur costs of repairs. The landlord claims \$740.00 for these repairs. The landlord has provided an invoice showing that the actual cost of repairs attributable to the tenant's breach was in excess of \$1,300.00. On the basis of the evidence before me, I find that the landlord has proven that the tenant's breach of the Act directly caused the landlord a loss in excess of the \$740.00 claimed and that the landlord is entitled to recover this amount from the tenant.

The landlord applied to keep the tenant's security deposit. I allow the landlord to retain the security deposit in partial satisfaction of the monetary award. No interest is payable over this period.

As the landlord has been successful in this application, it is entitled to recover the filing fee paid from the tenant.

### Conclusion

I issue a monetary order in the landlord's favour in the amount of \$140.00 under the following terms:

Item	Amount
Cleaning	\$350.00
Repairs	740.00
Offset Deposit Amount	-1,000.00
Recovery of Filing Fee for this Application	50.00
<b>Total Monetary Order</b>	<b>\$140.00</b>

The landlord is provided with this order in the above terms and the tenant(s) must be served with this order as soon as possible. Should the tenant(s) fail to comply with this order, this order may be filed in the Small Claims Division of the Provincial 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 subsections 9.1(1) and 77(2) of the Act.

Dated: June 2, 2016

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Residential Tenancy Branch