



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC OLC PSF RP RR

### Introduction

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

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. The landlord acknowledged receipt of the tenant's evidence package for this hearing.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order for compensation for loss?

Is the tenant entitled to an order requiring the landlord to comply with the *Act*?

Is the tenant entitled to an order to the landlord to provide services or facilities?

Is the tenant entitled to an order to the landlord to make repairs to the rental unit and/or an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided?

Is the tenant entitled to recover the filing fee for this application from the landlord?

### Background and Evidence

This tenancy began on July 1, 2016 with a rental amount of \$976.00 payable on the first of each month. The tenant submitted a copy of the residential tenancy agreement that indicated the tenancy was set for a fixed term of 12 months. The landlord continues to hold the tenant's security deposit in the amount of \$487.50 paid at the outset of the tenancy on June 28, 2016.

The tenant testified that, when he attended with his belongings to move into the rental unit, the unit was very unclean and in disrepair. The tenant submitted photographs of the rental unit dated July 1, 2016. The photographs showed unclean sinks, unclean floors, and some garbage in the rental unit, as well as dirty cabinets and dirty appliances.

The tenant testified that the manager/caretaker was not aware of his move-in date. The tenant testified that he had communicated only with Landlord F until this date. The tenant testified that, at move-in, he tried calling Landlord F but that he was unable to contact him. He submitted a copy of a letter provided to Landlord F on July 12, 2016 detailing the move-in day and the cleaning work that he undertook. The tenant provided undisputed testimony that he both telephoned and emailed Landlord F explaining the circumstances at move-in and requesting compensation for his time cleaning the premises.

The landlord testified that the manager/caretaker who dealt with this tenant's move-in no longer works for the company. The landlord testified that this caretaker should have cleaned the rental unit prior to the tenant moving in. The landlord testified that the tenant should have contacted him that evening and he would have had someone come to clean in the morning. The landlord testified that he has offered some compensation to the tenant on previous occasions but does not feel that he is "legally responsible" for the tenant's cleaning time and efforts.

The tenant sought \$240.00. He testified that he cleaned for approximately 12 hours and should be compensated at a rate of \$20.00 per hour. The tenant testified that he researched cleaning hourly rates by an online search and telephoning cleaning companies. The landlord testified that he has cleaners who work for \$15.00 per hour and that it would not have taken 12 hours for his cleaners to clean the rental unit. The landlord referred to the tenant's photographs as evidence as he did not see the rental unit at move-in.

### Analysis

A landlord should provide a tenant with a clean rental unit at the outset of the tenancy. Section 37 of the Act, as well as the provisions relating to move-in and move-out condition inspection reports show that a tenant is required to leave a rental unit “reasonably clean and undamaged except for reasonable wear and tear”. Residential Tenancy Policy Guidelines address the responsibility of the tenant to ensure the cleanliness of the unit at the end of tenancy and the consequences if the tenant does not do so. Residential Tenancy Policy Guideline No. 1 addresses the rights and responsibilities of landlords and tenants. Guideline No. 1 specifies that, at the beginning of a tenancy, the landlord is expected to provide; clean carpets; clean window-coverings; and clean windows. The reasonable conclusion to be drawn is that the rental unit would have been clean when the tenant arrived to begin his tenancy. If the previous tenants did not clean and tidy the rental unit, it is incumbent on the landlord to make the unit clean and tidy before the next tenant moves in.

The landlord did not dispute that the tenant’s rental unit was unclean at the start of his tenancy. The landlord merely disputed that he is responsible to compensate the tenant for his initiative to clean the unit instead of requesting the landlord provide cleaning services. However, in this particular situation, where the tenant arrived late in the day and was unable to reach the landlord, and when the manager at that time was of no assistance to the tenant with respect to the state of the rental unit. I find that it was a reasonable action for the tenant to clean the unit himself rather than to wait for the following day. I accept the tenant’s testimony that he did not wish to spend the evening or bring his furnishings into an unclean home.

When a party seeks damages against another party, it is important that the party claiming loss mitigate that claim. While it was reasonable that the tenant clean his rental unit the evening of move-in, I find that the tenant did not take sufficient steps to mitigate any loss he incurred as a result of his cleaning efforts. The landlord would have been available in the morning and the tenant could have taken more moderate steps in cleaning, allowing the landlord to bring in their own cleaners and incur their own cost the following day. Given the tenant’s lack of mitigation of the costs he describes as incurred, I find that the appropriately hourly amount is \$15.00 per hour as evidenced by the testimony and materials of the landlord.

Given that the landlord’s agent failed to provide the tenant with a clean and tidy unit at move-in and that the tenant was provided with no feasible alternative in the evening, I find that he is entitled to recover for 12 hours of cleaning. I find that the tenant is entitled to compensation totalling \$180.00 for 12 hours work at \$15.00 per hour.

As the tenant was successful in his application, I find that he is entitled to recover the \$100.00 filing fee from the landlord.

Conclusion

I issue the tenant a monetary award against the landlord in the amount of \$280.00. I allow the tenant to reduce his October 2016 rent from \$975.00 to \$695.00 to recover the monetary amount issued against the landlord.

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: September 20, 2016

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Residential Tenancy Branch