



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MND, MNDC, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order, an order to retain the security deposit in partial satisfaction of the claim and an order to recover the filing fee for this application. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

### Preliminary Issue

As part of this application, the landlord is seeking to retain the security deposit however the matter of the security deposit was dealt with in a previous hearing in the tenant's favour. As this matter has been already addressed the issue of the security deposit is therefore Res Judicata and I need not consider it.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed for damages and compensation?  
Is the landlord entitled to the recovery of the filing fee?

### Background, Evidence

The landlords counsel submits the following. The tenancy began on August 31, 2012 and ended on November 1, 2015. The tenants were obligated to pay \$1200.00 per month in rent in advance. Neither a move in or move out written condition inspection report was conducted. Counsel submits that the unit was fully renovated in 2012; including flooring, carpets, paint, and blinds. Counsel submits that the tenant left the unit dirty and damaged. Counsel submits that the tenant made no attempts to clean the unit prior to leaving or to repair any of the damage that she caused. The landlord agrees that

the unit was dirty when the tenant moved in but was otherwise in excellent condition when it was given to the tenant.

The landlord is applying for the following:

1.	Shampoo Carpets	\$84.00
2.	Suite Cleaning and Cleaning Supplies	\$337.67
3.	Replace Carpet	\$1091.89
4.	Paint and Paint supplies	\$260.42
5.	Blinds	\$261.76
6.	Estimate for drywall repair, exterior stucco repair, closet door, laundry tub and door jamb	\$2520.00
	Total	<b>\$4555.74</b>

The tenant gave the following testimony. The tenant stated that she disputes the majority of the landlords claim. The tenant stated that she is responsible for the exterior stucco repair, the closet door replacement and for the painting of one room. The tenant stated that the unit was given to her in extremely poor condition as the landlord had a problem tenant prior to her moving in. The tenant stated that the landlord informed her that the previous tenant had two pit bulls and two children.

### Analysis

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

Section 67 of the Act states that when a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. **To prove a loss the applicant must satisfy all four of the following four elements:**

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

It is worth noting that although the landlord stated that they fully renovated the unit in March of 2012, they did not provide any receipts to support that claim. In addition, the photos submitted by the landlord are black and white photocopies of an extremely poor quality making the items photographed virtually indiscernible. Furthermore, there are no condition inspection reports before me to make a comparison from the beginning of the tenancy to the end and to ascertain changes to the unit, if any.

I address the landlords claim and my findings as follows.

1. Shampoo Carpets - \$84.00.

The tenant stated that she owns her own shampooer and that the carpets were shampooed. The tenant stated that the big stain in the rec room that the landlord referred to several times during the hearing was there when she moved in. The landlord did not provide a condition inspection report or adequate quality photos depicting the carpet at move in versus move out. Based on the insufficient evidence before me, the tenants disputing testimony and on a balance of probabilities I dismiss this portion of the landlords claim.

2. Suite Cleaning and cleaning supplies - \$337.67

The tenant stated that she cleaned along with her daughter all day on October 31, 2015. The tenant stated that the unit was left very clean. The landlord stated that he paid the incoming tenant \$300.00 to clean the unit and provided a copy of a cheque. The landlord did not provide a condition inspection report or adequate quality photos depicting the cleanliness of the unit at move in versus move out. Based on the insufficient evidence before me, the tenants disputing testimony and on a balance of probabilities I dismiss this portion of the landlords claim.

3. Replace Carpet- \$1091.89

The landlord stated that because of the large stain on the rec room carpet, it had to be replaced. The tenant stated that the stain was pre-existing damage and that she is not responsible for the stain. The landlord did not provide a condition inspection report or adequate quality photos depicting the condition of the carpet at move in versus move out. Based on the insufficient evidence before me, the tenants disputing testimony and on a balance of probabilities I dismiss this portion of the landlords claim.

4. Paint and Paint Supplies - \$260.42.

The landlord stated that the tenant painted a room without permission. The landlord stated that the tenant caused numerous chips, dents, scuffs and holes throughout the unit and seeks the paint and supplies cost to repair them. The tenant agrees that she did paint one room without the landlord's permission and that \$60.00 would cover the cost of paint to paint that room. The tenant denies the balance of the landlords claim. The landlord did not provide a condition inspection report or adequate quality photos depicting the condition of the walls at move in versus move out. Based on the insufficient evidence before me, the tenants disputing testimony and on a balance of probabilities I dismiss this portion of the landlords claim except for the \$60.00 that the tenant agrees the landlord is entitled to for supplies to paint the one room she painted without permission. The landlord is granted \$60.00.

5. Blinds - \$261.76

The landlord stated that the tenant damaged, bent and removed blinds throughout the unit. The tenant stated that many of the blinds were old and brittle and that she made the landlord aware of this at the day of move in. The landlord did not provide a condition inspection report or adequate quality photos depicting the condition of the blinds at move in versus move out. Based on the insufficient evidence before me, the tenants disputing testimony and on a balance of probabilities I dismiss this portion of the landlords claim.

6. Estimate for drywall repair, exterior stucco repair, closet door, laundry tub and door jamb - \$2520.00.

The landlord stated that they do not have the money to conduct these repairs at this time and that these are very conservative estimates. The landlord stated that the tenant is responsible for all of these damages. The tenant does not dispute the \$120.00 for the exterior stucco claim or the \$280.00 to replace the closet doors. The tenant disputes the remainder of the claim as these items were pre-existing damage and that she should not have to pay for them. Based on that acknowledgement; the landlord is entitled to \$400.00. As for the remainder of the claim; the landlord did not provide a condition inspection report or adequate quality photos depicting the condition of the drywall, laundry tub or door jamb at move in versus move out. Based on the insufficient evidence before me, the tenants disputing testimony and on a balance of probabilities I dismiss this portion of the landlords claim.

As the landlord has been partially successful in their application they are entitled to the recovery of the \$100.00 filing fee.

Conclusion

The landlord has established a claim for \$560.00. I grant the landlord an order under section 67 for the balance due of \$560.00. 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: September 12, 2016

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Residential Tenancy Branch