



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *MNDC, MNSD, MNR, MND, FF.*

### **Introduction.**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*.

The landlord applied for a monetary order for unpaid rent, cost of repairs, for the filing fee and to retain the security and pet deposits in satisfaction of his claim. The tenant applied for a monetary order for the return of double the security and pet deposits, compensation for the cost of laundry and for the filing fee.

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.

### **Issues to be decided**

Is the landlord entitled to a monetary order for unpaid rent, the cost of repairs, the filing fee and to retain the deposits in satisfaction of his claim? Is the tenant entitled to the return of double the deposits, compensation and the recovery of the filing fee?

### **Background and Evidence**

The tenancy started on January 01, 2015. The property manager who was also a witness at the hearing testified that the previous tenants had moved out and had also paid for the full month of December. At the tenant's request, the manager allowed the tenants to move prior to the start date of the tenancy. The tenant agreed that he did not pay rent for the time he occupied the rental unit prior to January 01, 2015.

The landlord stated that he purchased the home in September 2014. The home is about 45 years old

The monthly rent was \$1,550.00 payable on the 1st of each month. Prior to moving in the tenant paid a security deposit of \$750.00 and a pet deposit of \$750.00.

The tenant testified that the landlord did not conduct a move in inspection and also did not provide the tenant with a copy of the move out inspection report that was carried out in the presence of the tenant. The tenant stated that the landlord did not prepare a report during the inspection but presented the tenant with one on July 14, 2016, after the tenant had moved out.

The landlord stated that he filled out the report during the inspection in the presence of the tenant and a witness, but the tenant refused to sign it. The landlord filed a letter from the witness confirming that he was present during the inspection and that the landlord had filled out a report that the tenant refused to sign. The witness statement also describes the damage that was discussed by the parties during the inspection.

The tenant provided the landlord with his forwarding address in writing on June 29, 2016. The landlord made this application on July 07, 2016 which is within the legislated 15 day timeframe for a landlord to file an application for damages against the security deposit and/or the pet deposit. The tenant is claiming the return of double the deposits.

The tenant testified that on June 16 2016, the laundry machine broke down and was inoperative. The tenant informed the landlord about the problem. The landlord sent a technician to fix the machine. The landlord stated that the timer was broken and the machine could still be operated manually. The landlord was unable to get a part for the machine and therefore the tenant did not have a laundry facility available to him for the last week of his tenancy.

The tenant stated that he had to drive 22.4 Kilometers to the nearest laundromat. He is claiming transportation costs and the costs of doing laundry. The tenant testified that he did a total of 8 loads of washing and drying at a cost of \$2.00 per load. The tenant is also claiming the cost of transportation at the rate of \$0.50 per kilometer. The tenant is claiming \$75.00 for the loss of this service.

The tenant agreed that he had damaged the tile around the hearth and offered the landlord \$100.00 towards the repair. The landlord wanted to replace the tile with one that was close to the original and incurred a cost of \$210.00 which he is claiming from the tenant.

The landlord also stated that there was a rug at the entrance of the home. The tenant placed this rug near the fireplace to protect the flooring in the living room from embers as there was no screen to prevent embers from flying out into the living room.

The tenant did not ask the landlord to provide a screen. The rug got ruined by the embers and the landlord is claiming the cost to replace it. The landlord has provided an estimate for the cost of replacing the rug.

The landlord stated that the tenant damaged a mirror and filed a photograph to support his testimony. The tenant stated that the damage may have taken place after he moved out. The landlord is claiming the cost of fixing the mirror and has filed a receipt for the cost he incurred.

The landlord stated that the tenant's dogs dug holes in the yard and he repaired the lawn himself. He is claiming the cost of materials used and has filed a receipt. The tenant agreed that he had three dogs that sometimes dug holes in the lawn.

The landlord also stated that a number of items were taken by the tenant when he moved out including hoses, nozzles and laundry supplies. The tenant stated that he brought his own hoses and nozzles when he moved in but agreed that some laundry supplies were taken by the people who packed his items.

The landlord filed a photograph of an oil stain on the floor of the shed. The tenant agreed to having created the stain. The landlord is claiming the cost of materials to replace the portion of the stained floor.

The landlord also filed photographs of a circular stain on the wooden flooring. The tenant admitted to having caused the damage. The landlord is claiming the cost of replacing the flooring or having it sanded out at \$375.00.

When the parties negotiated the rent at the start of a new term of the tenancy, the tenant agreed to provide the landlord with internet services in exchange for a reduced rent. The tenant discontinued the service on June 26, 2016 without warning the landlord. The landlord is claiming \$11.35 for the loss of use of the service for the remainder of June.

The tenant agreed that damage to the drywall occurred during the tenancy and the landlord is claiming \$50.00 for supplies to repair the damage. The landlord repaired the drywall himself and has not made a claim for his time.

The landlord is claiming the following:

1.	Hearth repair	\$210.00
2.	Rug replacement	\$174.17
3.	Mirror replacement	\$37.78
4.	Garden supplies	\$58.25
5.	Missing items	\$90.41
6.	Replace floor in shed	\$75.00
7.	Internet	\$11.35
8.	Rent December 2014	\$774.19
9.	Drywall repair	\$50.00
10.	Replace flooring	\$735.00
11.	Filing Fee	\$100.00
	<b>Total</b>	<b>\$2,316.15</b>

### **Analysis**

#### **Landlord's application:**

##### **1. Hearth repair - \$210.00**

The tenant agreed that he had damaged the tile around the fireplace and offered the landlord \$100.00 towards repair. I award the landlord \$100.00.

##### **2. Rug replacement - \$174.17**

The tenant stated that he placed this rug near the fireplace to protect the carpet in the living room from embers. The rug did get damaged. The tenant stated that the fireplace did not have a screen to prevent embers from flying into the living room. The tenant had the option to request the landlord to provide one. The landlord has filed an estimate for the replacement of the rug and has not yet replaced it. The landlord testified that the rug is approximately two years old.

Based on the testimony of both parties, I find that both parties contributed to the damage. The landlord did not provide a screen and the tenant placed the rug near the fire place instead of requesting the landlord to provide a screen.

Since both parties are partially to blame, I find it appropriate to award the landlord approximately half of the cost incurred in the amount of \$80.00.

3. Mirror replacement - \$37.78

Based on the testimony of both parties, I find on a balance of probabilities that the tenant damaged the mirror and is responsible for the replacement. I award the landlord his claim.

4. Garden supplies - \$58.25

The tenant had three dogs and he agreed that they did dig holes in the yard. The landlord has made a reasonable claim for supplies only. I award the landlord his claim.

5. Missing items - \$90.41

The tenant agreed that he had taken a used bottle of bleach and stated that his packers had done so in error. The tenant denied having taken any other items from the rental home. Since the tenant used packers during the move, it is possible that items not belonging to the tenant were packed. I find it appropriate to award the landlord \$20.00.

6. Replace floor in shed - \$75.00

The tenant agreed that the oil stain was created by his equipment. The landlord is claiming for the cost of supplies only to replace a portion of the flooring of the shed. I award the landlord his claim.

7. Internet - \$11.35

The parties had negotiated rent taking into consideration that the tenant would provide the landlord with internet services. The tenant discontinued the service prior to the end of the month. Therefore I award the landlord his claim.

8. Rent for December 2014 - \$774.19

The landlord had already received full rent for the month of December 2014 from the previous tenants that moved out prior to the start of this tenancy. The landlord did not suffer a loss of income and therefore I dismiss his claim for rent.

9. Drywall repair - \$50.00

The tenant agreed that holes in the drywall were created during the tenancy. The landlord is claiming for the cost of supplies. I award the landlord his claim.

#### 10. Replace flooring - \$735.00

The tenant agreed that his office chair had caused the mark in the wooden floor. The landlord filed photographs of the damage. The estimate filed by the landlord is for replacement of the floor. The landlord testified that the technician offered to sand the floor and remove the mark for \$375.00. I find that the landlord is entitled to \$375.00.

#### 11. Filing fee - \$100.00

The landlord has proven his claim. I award him the recovery of the filing fee.

Overall the landlord has established the following claim:

1.	Hearth repair	\$100.00
2.	Rug replacement	\$80.00
3.	Mirror replacement	\$37.78
4.	Garden supplies	\$58.25
5.	Missing items	\$20.00
6.	Replace floor in shed	\$75.00
7.	Internet	\$11.35
8.	Rent December 2014	\$0.00
9.	Drywall repair	\$50.00
10.	Replace flooring	\$375.00
11.	Filing Fee	\$100.00
	<b>Total</b>	<b>\$907.38</b>

#### Tenant's application:

Section 38(1) of the Act provides that the landlord must return the deposits or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. If the landlord fails to repay the deposits or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

In this case, the tenancy ended on June 28, 2016 and the tenant provided the landlord with his forwarding address in writing on June 29, 2016. The landlord filed this application on July 06, 2016 which is within the legislated time frame of 15 days. Therefore the tenant is not entitled to the return of double the deposits. However the tenant is entitled to the return of the base amount of the deposits.

The tenant has applied for compensation in the amount of \$75.00 for the loss of the use of the laundry service. I accept the testimony of the tenant regarding the cost he incurred to launder his belongings during the last week of the tenancy. The tenant stated that he did 8 loads of washing and drying for a total of \$16.00. The tenant has also claimed the cost of transportation at \$0.50 per kilometer for a total of \$22.40. I award the tenant \$38.40.

Since the tenant has proven his claim I award him the recovery of the filing fee.

Overall the tenant has established a claim as follows:

1.	Return of deposits	\$1,500.00
2.	Compensation	\$38.40
3.	Filing Fee	\$100.00
	Total	<b>\$1,638.40</b>

The landlord has established a claim of \$907.38 and the tenant has established a claim of \$1,638.40. I will use the offsetting provisions of section 72 of the *Act* to grant the tenant a monetary order in the amount of \$731.02 which consists of the difference between the established entitlements of both parties. I grant the tenant a monetary order under section 67 of the *Residential Tenancy Act* for the amount of \$731.02. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

I grant the landlord a monetary order in the amount of **\$731.02**

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: January 13, 2017

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Residential Tenancy Branch