



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

On June 23, 2016, the Landlord submitted an Application for Dispute Resolution for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement, and to recover the cost of the filing fee.

The matter was scheduled as a teleconference hearing. The Landlord and Tenant attended the hearing. At the start of the hearing I introduced myself and the participants. The Landlord and Tenant provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The Tenant testified that he received the Landlord's documentary evidence that I have before me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

The Landlord's Application requests a monetary amount of \$1,650.47. The Landlord's documentary evidence includes a claim for \$2,534.80. Since the Landlord did not amend the Application and serve the Tenant with a copy of the Amended application the Landlord's monetary claim is limited to the amount stated within the Application.

### Issues to be Decided

- Is the Landlord entitled to compensation for damage or loss?
- Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The parties testified that the tenancy commenced in March 1 2014. The Tenant paid the Landlord monthly rent in the amount of \$2,250.00. The Tenant paid the Landlord a security deposit of \$1,025.00.

The Tenant vacated the rental unit on May 31, 2016.

Landlord testified that the Tenant left the rental unit unclean at the end of the tenancy and that items were damaged. The Landlord provided a copy of a condition inspection report.

The Landlord is requesting compensation in the amount of \$1,650.47 for the following items:

Mattress	\$448.00
Lampshade	\$20.00
Pots and Pans	\$145.15
Blinds and Furniture Cleaning	\$381.15
Ottoman and Carpet	\$1,173.00
Hydro	\$21.89
Cleaning	\$433.35
Painting	\$333.82
Bedding and Towels	\$502.68

The Landlord testified that the Tenant did not fully participate in a move out inspection because he took off before the inspection was complete. The Landlord testified that the Tenant hired a cleaning person off the internet and left the cleaner in the unit to perform the cleaning.

The Tenant did not submit any documentary evidence to be considered in response to the Landlord's claims. The Tenant did not respond to every claim that the Landlord testified to in the hearing. The Tenant stated that the Landlord has provided falsified accusations and claims. The Tenant submitted that the Landlord has not provided photographs of the unit at the time of the move out. The Tenant submitted that the Landlord did not provide photographs of the items when they were new.

The Tenant testified that he did not participate in a move out inspection due to a meeting he had to attend, and he did not sign the Condition Inspection Report provided by the Landlord. The Tenant testified that he hired a cleaner and paid her a flat rate of \$100.00 to clean the unit.

### Mattress

The Landlord testified that the mattress in the rental unit was brand new when the Tenant moved in. The Landlord testified that at the end of the tenancy the Landlord found the Mattress to be stained and smelly. The Landlord testified that he had to

purchase a new mattress which was the same quality of mattress as the one that was ruined. The Landlord provided a receipt in the amount of \$448.00 for the purchase of a king size mattress. The Landlord testified that he also paid \$100.00 for the delivery charge for the mattress but has no receipt.

The Tenant did not specifically respond to the Landlord's claim for compensation for a damaged mattress.

#### Lampshade

The Landlord testified that the Tenant is responsible for damage to a lampshade. The Landlord testified that the lampshade was brand new at the start of the tenancy. The Landlord testified that he had to replace the lampshade with a new one. The Landlord testified that he does not have a receipt for the purchase of a new lampshade. The Landlord provided photographs of the creased lampshade.

The Tenant did not specifically respond to the Landlord's claim for compensation for a damaged lampshade.

#### Pots and Pans

The Landlord testified that the Tenant is responsible for the cost to replace the cookware. The Landlord testified that the cookware was new when the Tenant moved in. The Landlord provided a photograph of a well-used frying pan. The Landlord testified that he purchased cookware of the same quality that was provided to the Tenant. The Landlord provided a receipt in the amount of \$145.15 for the purchase of cookware and housewares.

The Tenant did not specifically respond to the Landlord's claim for compensation for unusable cookware.

#### Ottoman and Shag Carpet

The Landlord testified that the ottoman and shag carpet were new at the start of the tenancy. The Landlord testified that the ottoman was burned, and the shag carpet was soiled. The Landlord testified that he attempted to have the carpet cleaned, but the cleaning company said it could not be cleaned.

The Landlord provided a receipt for the purchase of an ottoman and a white shag carpet in the amount of \$1,173.76. The Landlord testified that he purchased a carpet and

ottoman in the same style as the one provided to the Tenant. The Landlord provided a photograph of a dirty grease stained shag carpet.

In response, the Tenant testified that the ottoman had a burn on it at the start of the tenancy.

#### Blinds and Furniture Cleaning

The Landlord testified that the Tenant is responsible for the cost of cleaning the blinds and furniture in the rental unit. The Landlord testified that he had to have all the blinds and furniture cleaned. The Landlord testified that the couch had a spot that has been bleached by the sun. The Landlord provided a receipt in the amount of \$381.15 for a professional carpet and upholstery cleaning company.

In response, the Tenant testified that he hired a cleaner at a flat rate of \$100.00 to clean the rental unit. The Tenant did not specifically respond to the Landlord's claim for compensation for having the blinds and furniture cleaned.

#### Hydro

The Landlord testified that the Tenant is responsible for hydro costs that were not paid prior to the Tenant moving out. The Landlord testified that he would present the hydro bill to the Tenant and the Tenant would pay. The Landlord provided a bill from hydro for the dispute address in the amount of \$21.89 for the period of April 29, 2016 to May 27, 2016.

The Tenant did not specifically respond to the Landlord's claim for compensation for the hydro bill.

#### Cleaning

The Landlord testified that the rental unit was not clean at the end of the tenancy. The Landlord provided a receipt from a cleaning service in the amount of \$767.17. The Landlord testified that 60 % of the cost is attributable to cleaning costs. The Landlord is seeking \$433.35 for the cost of having the rental unit cleaned. The Landlord testified that the appliances, counters, living room and kitchen were left dirty. The Landlord provided two photographs of the stovetop and oven. The quality of the photographs is poor as they are dark.

In response, the Tenant testified that he hired a cleaner at a flat rate of \$100.00 to clean the rental unit. The Tenant testified that he did not stay for the move out inspection as he had a meeting to attend. The Tenant did not specifically refer or respond to the Landlord's photographs of the oven other than to say they were blurry.

### Painting

The Landlord testified that the rental unit was freshly painted prior to the Tenant moving into the unit. The Landlord testified that the kitchen and entry walls needed to be painted at the end of the tenancy. The Landlord testified there were gouges in the walls. The Landlord is claiming \$338.82 for materials and labour to paint the unit. The Landlord provided one blurry photograph of a wall with a gouge in it.

The Tenant did not specifically refer to the Landlord's photographs of the wall or respond to the Landlord's claim for painting and materials.

### Bedding and Towels

The Landlord testified that the Tenant was provided with new bedding and towels at the start of the tenancy. The Landlord testified that when the Tenant moved out everything was stained and could not be used. The Landlord testified that he threw away the duvet, pillows, sheets and towels. The Landlord provided a receipt in the amount of \$502.68 for the purchase of sheets, towels and bedding. The Landlord provided a photograph of a soiled towel.

### Analysis

Sections 23 and 35 of the Act states that a Landlord and Tenant together must inspect the condition of the rental unit on the day the Tenant is entitled to possession of the rental unit, and at the end of the tenancy before a new tenant begins to occupy the rental unit. Both the Landlord and Tenant must sign the condition inspection report and the Landlord must give the Tenant a copy of that report in accordance with the regulations.

The Residential Tenancy Policy Guideline # 16 Claims in Damages states:

*An arbitrator may award monetary compensation only as permitted by the Act or the common law. In situations where there has been damage or loss with respect to property, money or services, the value of the damage or loss is established by the evidence provided.*

*An arbitrator may also award compensation in situations where establishing the value of the damage or loss is not as straightforward:*

*“Nominal damages” are a minimal award. Nominal damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right.*

*A party seeking compensation should present compelling evidence of the value of the damage or loss in question.*

The Residential Tenancy Policy Guideline #1 Landlord & Tenant – Responsibility for Residential Premises states:

*a tenant is 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.*

Based on all of the above, the evidence and testimony, and on a balance of probabilities, I find as follows:

I find that the Tenant failed to participate in the move out inspection on May 31, 2016. The Tenant testified that he left hired a cleaner and left the cleaner to finish the cleaning. I find that the Tenant was not present to inspect the cleanliness of the unit after the cleaner was finished cleaning, and the Tenant could not possibly know the state of cleanliness of the rental unit.

The Tenant stated that the Landlord did not provide photographs to establish that the items in the apartment were new at the start of the tenancy. I acknowledge the Tenant's submission on this; however, the Tenant did not refute much of the Landlord's testimony during the hearing that the items were new at the start of the tenancy. The Tenant failed to specifically respond to many of the Landlord's claims.

The Tenant testified that the Landlord failed to provide photographs of the condition of the rental unit at the time of the move out. While I find that the Landlord did not provide photographs of the entire rental unit, I find that the Landlord did provide some photographs to support some of his claims.

I find that the Condition Inspection Report is not reliable evidence as to the condition of the rental unit at the start or end of the tenancy and I will not rely on it in this decision. The Tenant testified that the document was fraudulent and I find that the move in and move out entries on the first two pages appear to have been completed at the same time. I find the writing on the third page is not as dark and appears to have been completed using a different pen.

### Mattress

While the Landlord did not provide a photograph of a dirty/ damaged mattress, the Tenant did not refute the Landlord's claim regarding the mattress during the hearing.

I find that the Landlord did not present compelling evidence of the value of the damage or loss in question. The Landlords claim is denied.

### Lampshade

The Landlord provided a photograph of lampshade with a crease. The Tenant did not respond to the Landlord's claim regarding the lampshade during the hearing. I find that the Tenant is responsible for damaging the lampshade. I award the Landlord the claimed amount of \$20.00.

### Pots and Pans

While the Landlord only provided one photograph of a dirty / damaged frying pan, the Tenant did not respond to the Landlord's claim that the Tenant damaged the cookware and the Landlord had to buy new cookware.

The Landlord only provided a photograph of one dirty / damaged pan that the Tenant used for two years. I award the Landlord a nominal amount of \$20.00

### Blinds Carpet and Furniture Cleaning

The Residential Tenancy Policy guideline #1 Landlord & Tenant – Responsibility for Residential Premises states:

*The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.*

The Landlord provided a receipt for professional cleaning of blinds, furniture and rugs. The Landlord provided a photograph of an area rug that appears to be very dirty.

The Tenant did not respond to the Landlord's claim regarding the need to clean the blinds furniture and carpets at the end of the tenancy.

The Tenant was not present for the inspection at the end of the tenancy and left before his cleaner was finished cleaning.

I find that the Landlord did not present compelling evidence of the value of the damage or loss regarding the blinds and furniture cleaning. I find that the Tenant is responsible to pay the Landlord for the cost to clean the carpet. I award the Landlord the amount of \$100.00 for carpet cleaning.

Ottoman and Shag Carpet

The Landlord is claiming \$1,173.76 for the cost of replacing an ottoman and shag carpet. The value of the damage or loss is established by the evidence provided and the burden of proof rests with the Landlord.

The Tenant testified that the ottoman was damaged at the start of the tenancy as it had a burn mark on it.

The Landlord has not provided sufficient evidence that the Tenant damaged the ottoman, and that the Tenant is responsible to pay for a new ottoman. The Landlord's claim for the replacement cost of the ottoman is dismissed.

The Tenant did not respond to the Landlord's claim regarding the shag carpet. I find that the Landlord's photographic evidence establishes that the shag carpet was dirty/damaged by dirt or grease. I find it appropriate to reduce the Landlord's claim amount to account for the depreciation of the carpet. I grant the Landlord \$399.20 for the cost of the replacement carpet, which amounts to 80% of the cost of the replacement carpet.

Hydro

The Tenant did not respond to the Landlord's claim of \$21.89 for the Hydro bill. The tenancy ended on May 31, 2016 and I find that the Tenant is responsible for the hydro up to the end of the tenancy. The Landlord is granted the amount of \$21.89.

Cleaning

While the Landlord did not provide many photographs of a dirty rental unit to support his claim, the Tenant did not participate in the move out inspection. The Tenant submitted he hired a cleaner and paid \$100.00 as a flat rate for cleaning; however, the Tenant could not know the condition of the unit at the end of the tenancy on May 31, 2016 because he left the unit prior to completion of the cleaning and inspection.

The Tenant testified that he opposed this claim from the Landlord. The value of the damage or loss is established by the evidence provided and the burden of proof rests with the Landlord.

I find that the Landlord has provided insufficient evidence to support his claim for the cleaning and I dismiss this claim.

Painting

At the hearing, the Tenant did not respond to the Landlord's claim regarding the need to paint the unit at the end of the tenancy. The Tenant did not respond to the Landlord's



photograph showing a gouge in a wall other than to say the Landlord's photographs are blurry.

I find that the Tenant is responsible for the cost of materials and labour to repair and paint the wall in the rental unit. The Landlord is awarded \$332.82 for painting.

### Bedding and Towels

The Landlord only provided one sample photograph of a soiled towel, the Tenant did not respond to the Landlord's claim that the Tenant damaged the bedding and towels.

I find that the Landlord did not present compelling evidence of the value of the damage or loss in question. The Landlord is awarded \$20.00 for the towel, and the remainder of the Landlord's claim is dismissed.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was partly successful with his application, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

The Landlord has established a monetary claim in the amount of \$913.91. After including the filing fee, I grant the Landlord a monetary order in the amount of \$1,013.91. The monetary order must be served on the Tenant and may be enforced in the Provincial Court.

### Conclusion

I find that the Tenant owes the Landlord the amount of \$1,013.91. I grant the Landlord a monetary order in the amount of \$1,013.91.

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 20, 2017

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Residential Tenancy Branch