



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

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

### **Introduction**

This hearing dealt with an application by the landlord, pursuant to the *Residential Tenancy Act*, for a monetary order for the cost of repairs, cleaning and painting and for the recovery of the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of his claim.

This matter was originally heard on October 19, 2016. There were issues regarding the landlord's evidence and therefore the hearing was adjourned to be heard on this date. 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**

Has the landlord established a claim against the security deposit and if so in what amount? Is the landlord entitled to the recovery of the filing fee?

### **Background and Evidence**

The tenancy started on December 01, 2014 and ended on April 30, 2016. The rent was \$1,150.00 payable on the first of each month. Prior to moving in the tenant paid a security in the amount of \$575.00.

The landlord stated that the tenant lit candles inside the unit and there was smoke damage to the walls. The tenant denied using candles. Both parties filed photographs into evidence. The smoke stains that the landlord is referring to are barely visible in one or two of the landlord's photographs. The photographs of the kitchen show that the tenant did not clean under the refrigerator and also did not clean the stove fan. The tenant's photographs depict clean walls. The landlord stated that after the tenant moved out, he cleaned the walls himself and is claiming the cost of his time to wash the smoke stains off the walls.

The female tenant agreed that she had placed a hot pot on the kitchen counter top and this left a circular stain. The landlord has filed an estimate of the cost to replace the countertop. The landlord stated that he painted the unit and is claiming the cost of doing so. The landlord stated that the bathroom closet door was damaged and would not shut. He alleged that the tenant would hang wet towels on the door and therefore it damaged the door. The tenant denied causing damage to the door.

The landlord filed quotes for the work done but stated he paid the same amount as the quote except for painting which cost him \$100.00 more than the quote. Both parties filed photographs depicting the condition of the unit after the tenant moved out.

The landlord is claiming the following:

1.	Washing and Cleaning the walls	\$1,780.00
2.	Replace countertop	\$1,191.75
3.	Painting	\$1,400.00
4.	Repair closet door	\$120.00
5.	Filing fee	\$100.00
	Total	<b>\$4,591.75</b>

### **Analysis**

*Residential Tenancy Policy Guideline#1* states that an arbitrator may determine whether or not the condition of the premises meets reasonable health, cleanliness and sanitary standards, which are not necessarily the standards of the arbitrator, the landlord or the tenant.

In this case, I have reviewed the photographs filed into evidence by both parties and I find that the tenant left the unit in a reasonably clean condition. However I also find that the tenant failed to clean under the refrigerator and the kitchen fan. I also find that there are some stains on the walls that the tenant left behind. Based on the testimony and evidence of both parties, I find that the tenant left the unit in a reasonably clean condition and I further find that the landlord is entitled to \$300.00 for cleaning the items that the tenant failed to clean.

The landlord stated that the counter top was installed in 2010 when he renovated the rental unit. Other than the stain created by the tenant the counter top is functional. The damage to the counter top is cosmetic. The landlord did not describe any efforts made to repair or buff out the damage and had the entire counter top replaced. The landlord has filed a quotation for the replacement of the counter top in the amount of \$1,191.75.

This estimate was faxed to the Residential Tenancy Branch Office on May 13, 2016. However the date on the estimate is May 20, 2016.

I find that while the counter top has a stain on it, this damage does not affect the functionality of the countertop and has merely reduced the value of the counter top. Accordingly I will award the landlord an arbitrary amount towards this loss of value.

*Residential Tenancy Policy Guideline #16* states that an arbitrator may award “nominal damages” which are a minimal award. These damages may be awarded where there has been no significant loss, but they are an affirmation that there has been an infraction of a legal right. Accordingly, I award the landlord a minimal award of \$200.00, towards the loss of value of the counter top.

The landlord stated that the unit was painted in August 2014. The landlord has provided an estimate in the amount of \$1,400.00. The landlord testified that he had the unit painted in August 2014. Based on the photographs, I find that the walls needed cleaning in some areas. For most part the walls appear to be undamaged and not in need of paint. For these reasons I dismiss the landlord’s claim for the cost of painting

The landlord stated that the bathroom closet door would not close because the tenant had hung wet towels on the door which caused some swelling. The tenant denied having done so and stated that he hung wet towels on the rod that was in the bathroom.

Based on the photograph of the door, I find that the door appears to be in good condition and the problem is possibly due to wear and tear. Accordingly I dismiss the landlord’s claim.

The landlord has proven a portion of his claim and therefore I award the landlord the filing fee in the amount of \$100.00.

Overall the landlord has established the following claim:

1.	Washing and Cleaning the walls	\$300.00
2.	Replace countertop	\$200.00
3.	Painting	\$0.00
4.	Repair closet door	\$0.00
5.	Filing fee	\$100.00
	<b>Total</b>	<b>\$600.00</b>

I order that the landlord retain the security deposit of \$575.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$25.00. 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 \$25.00.

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: February 02, 2017

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Residential Tenancy Branch