



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CASCADIA APARTMENT RENTALS LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND, MNR, MNDC, MNSD, FF

### Introduction

On October 13, 2016, the Landlord submitted an Application for Dispute Resolution for a monetary order for unpaid rent ; damage to the unit; to keep the security deposit; and to recover the cost of the filing fee. The matter was scheduled for a conference call hearing.

The Landlord attended the teleconference hearing; however, the Tenants did not. The Landlord provided affirmed testimony that the Tenant N.M. was served with the Notice of Hearing by express post mail on November 5, 2016. The Landlord testified that the tracking information shows that the mail was delivered to Mr. N. M.. I find that the Tenant N.M has been sufficiently served with the Notice of Hearing for purposes of this Act.

The Landlord was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

### Issues to be Decided

- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the Landlord entitled to a monetary order due to damage?
- Is the Landlord entitled to keep the security deposit towards unpaid rent?
- Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The Landlord testified that the tenancy began on June 1, 2016, as a fixed term tenancy to continue until May 31, 2017. Rent in the amount of \$1,850.00 was to be paid in advance of the first day of each month. The Tenants paid the Landlord a security deposit of \$925.00.

The Landlord provided a copy of the tenancy agreement. The agreement contains a liquidated damages clause that states if the Tenants terminate the tenancy before the

end of the term, the Tenants agree pay the amount of \$925.00 as a liquidated damages fee.

The Landlord testified that the Tenants moved out and ended the tenancy prior to the end of the term. The Landlord provided a copy of a letter dated August 31, 2016, that states the Tenants are giving 30 days' notice to end the tenancy.

The Landlord testified that the Tenants moved out of the rental unit on October 1, 2016. The Landlord testified that the rental unit was rented to a new tenant starting October 1, 2016.

The Landlord testified that they conducted a move in inspection and move out inspection with the Tenants. The Tenant N.M. was the only Tenant that participated in the move out inspection. The Landlord testified that Tenant N.M. refused to sign the condition inspection report. The Landlord provided a copy of the condition inspection report.

The Landlord makes a total monetary claim in the amount of \$1,391.67 as follows:

Rent	\$64.67
Liquidated damages	\$925.00
Carpet cleaning	\$100.00
Cleaning	\$201.60
Painting	\$60.00
Junk removal	\$73.50

#### Rent

The Landlord testified that the Tenants moved out on October 1, 2016. The Landlord is seeking \$64.67 in compensation for the extra day the Tenants lived in the rental unit. The Landlord also submitted that the Tenant owes \$5.00 in arrears for September 2016, rent.

#### Liquidated Damages

The Landlord is seeking to enforce the liquidated damages clause within the tenancy agreement. The Landlord submitted that the Tenants ended the tenancy early. The Landlord is seeking \$925.00.

#### Carpet cleaning

The Landlord testified that the Tenants had an unauthorized cat and that the carpets had an odor of urine and required cleaning. The Landlord is seeking \$100.00 for the cost of the carpet cleaning. The Landlord provided a receipt for the cost of the carpet cleaning.

Cleaning

The Landlord testified that the tenants left the rental unit dirty and the entire rental unit required cleaning. The Landlord provided color photographs of the rental unit to support her claim for cleaning costs. The Landlord is seeking \$201.60 for cleaning costs.

Painting

The Landlord testified that the basement floor required to be painted due to damage and pet urine. The Landlord provided a photograph and receipt for the cost of paint and is seeking \$60.00.

Junk removal

The Landlord testified that she had to dispose of a couch and other household junk that the Tenants left behind. The Landlord provided a receipt in the amount of \$73.50 for the cost of removing and disposing the Tenant's junk.

Security Deposit

The Landlord applied on October 13, 2016, to keep the security deposit of \$925.00 in partial satisfaction of the claim.

Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenants ended the tenancy prior to the end of the fixed term tenancy agreement.

I find that the tenancy agreement permits the Landlord to claim for liquidated damages if the tenancy is ended early, and I grant the Landlord the amount of \$925.00 as set out in the tenancy agreement.

I dismiss the Landlord's claim for \$64.67 in rent for October 1, 2016. The Landlord testified that the new tenant paid rent for the entire month of October 2016, and the Landlord should not benefit from receiving rent twice. I grant the Landlord \$5.00 for rent owing from September 2016.

The Tenant N.M. failed to attend the hearing. The Landlord's claims for cleaning, painting, and junk removal are unopposed. I find that the Landlord's claims are reasonable and are supported by photographs, and receipts. I grant the Landlord's monetary claims for these items in full.

The Landlord conducted a move in and move out inspection and applied for dispute resolution to keep the security deposit within 15 days of receiving the forwarding address of Tenant N.M. I find the Landlord's claim to keep the deposit is in compliance with section 38 of the Act. I order that the Landlord can keep the security deposit in the amount of \$925.00 in partial satisfaction of the Landlord's claim.

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

I find that the Landlord has established a total monetary claim of \$1,465.10 comprised of \$925.00 for liquidated damages, \$540.10 for rent, cleaning, and repair costs, and the \$100.00 fee paid by the Landlord for this hearing.

After setting off the security deposit of \$925.00 towards the claim of \$1,465.10, I find that the Landlord is entitled to a monetary order in the amount of \$540.10. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

### Conclusion

The Tenants ended the fixed term tenancy early. The Landlord has established a monetary claim in the amount of \$1,465.10.

I order that the Landlord can keep the security deposit in the amount of \$925.00 in partial satisfaction of the Landlord's claim.

I grant the Landlord a monetary order in the amount of \$540.10 for the cost of cleaning, repairs and the filing fee.

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: April 19, 2017

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Residential Tenancy Branch