



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes                      MND, MNDC, MNSD, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for damage to the unit and money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other.

### Issue to be Decided

Is the landlord entitled to a monetary award for damage arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background, Evidence

The landlord's testimony is as follows. The tenancy began on November 1, 2015 and ended on October 31, 2016. The tenants were obligated to pay \$1750.00 per month in rent in advance and at the outset of the tenancy the tenants paid an \$875.00 security deposit which the landlord still holds and an \$875.00 pet deposit that has already been returned. The landlord testified that a written condition inspection report was conducted with the tenant at move in. The landlord testified that due to so many lightbulbs being burnt out in the unit, only a partial written condition inspection report was done at move out. The landlord testified that the parties agreed to meet at 4:00 p.m. on October 31, 2016 to conduct the inspection. The landlord testified that the unit was so dark and difficult to see that she could not accurately complete the report. The landlord

testified that the following day she replaced the bulbs and noticed more deficiencies with the unit. The landlord contacted the tenants and advised them the unit was not left in the condition that she expected and advised them that they would be responsible for any costs she incurred.

The landlord is applying for the following:

1.	Mirror	\$33.56
2.	Replacement Light Bulbs	102.34
3.	Baseboards	15.28
4.	Paint and Supplies for Baseboards	42.86
5.	Siding Repair	294.00
6.	Carpet Cleaning	198.40
7.	Flooring and Transition Strip	247.20
8.	Replacement Fob	100.00
9.	Truck Fuel and Bridge Tolls	102.00
10	Less Deposit	-875.00
	Total	<b>\$260.64</b>

The tenant gave the following testimony. The tenant testified that they agree with some of the claims that the landlord has put forward but dispute others. The tenant testified that the parties parted ways on October 31, 2016 and thought the matter was closed. The tenant testified that he thinks it's unfair for the landlord to make claims up to a week after the report was done. The tenant disputes that the unit was so dark that the landlord couldn't see well enough to complete the report. The tenant testified that he was willing to work with the landlord and move forward from this incident but she was not willing to be flexible.

### Analysis

I address the landlord's claims and my findings as follows.

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 landlords claim and my findings around each are set out below.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In

this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

Mirror, Baseboards & Siding

The tenant testified that he accepts responsibility for the following; mirror \$33.56, baseboards \$15.28, and siding repair \$294.00. Based on the tenants' acknowledgment I find that the landlord is entitled to \$342.84.

Lightbulbs

The landlord testified that she spent \$102.34 to replace all the lightbulbs in the unit, many of which were LED bulbs. The landlord testified that although the tenant thinks the amount is high "that's what I paid to replace them". The landlord provided a receipt to support her claim. The tenant asked me to clarify whether a tenant was responsible for the replacement of lightbulbs. It was explained to both parties that Residential Tenancy Policy Guideline 1 requires a tenant to replace light bulbs during their tenancy. The tenant stated that he accepts the requirement for the tenant to do that but felt the cost was high. As noted above, the landlord provided a receipt to reflect the actual amount she spent for the replacement of the required bulbs; accordingly I find that the landlord is entitled to \$102.34.

Paint and Materials for Baseboards

The tenant testified that he agrees with the cost to replace the baseboards; as noted above, but questions why they needed to be painted if they were new. The landlord testified that although new, they still needed to be prepped and painted to match the suite. The landlord provided receipts to support this claim. Based on the documentary evidence and the landlords' explanation, they have provided sufficient evidence to support this claim and are entitled to \$42.86.

Carpet Cleaning

The tenant testified that he cleaned the carpets at some point in July or August of 2016 and shouldn't have to clean them again at move out. The landlord testified that the tenants left the carpet stained and despite their attempts to remove the stain, they were unsuccessful. The landlord testified that she had the carpets professionally cleaned after the tenants moved out at a cost of \$198.40 and supplied the receipt to support her claim. Residential Tenancy Policy Guideline 1 addresses carpet cleaning as follows:

*The tenant may be expected to steam clean or shampoo the carpets at the end of a tenancy, regardless of the length of tenancy, if he or she, or another occupant, has had pets which were not caged or if he or she smoked in the premises.*

Based on the above, I find that the landlord is entitled to the carpet cleaning in the amount of \$198.40.

#### Flooring and Transition Strip

The landlord testified that the tenant advised her in January 2016 that the dishwasher leaked. The landlord testified that she was unable to attend right away but was advised that the leak had stopped so she didn't inquire any further. The landlord testified that after the tenants moved out she noticed that some flooring and the transition strip were bubbled and raised. The landlord testified that the dishwasher must have still been leaking and that the tenants should be held responsible for the flooring repair. The landlord advised that the flooring was seven years old. The tenant testified that the leak only occurred once and that the damage was from that incident. The tenant testified that he had no reason not to advise the landlord if the dishwasher was still leaking. The tenant testified that the landlord didn't follow up on the damage and now seeks to make him pay for it.

The landlord has not provided sufficient evidence that the tenants' actions were negligent or reckless and therefore has not satisfied all four grounds as needed per section 67 of the Act. Based on the insufficient evidence before me, I dismiss this portion of the landlords claim.

#### Damaged Fob

The landlord testified that the tenant returned the fob damaged and glued shut rendering it virtually useless. The landlord provided a receipt that she replaced the fob. The tenant testified that the fob worked fine when they returned it to the landlord and shouldn't be charged for it. I find that the landlord has provided sufficient evidence to support this claim and accordingly, I find that they are entitled to \$100.00.

#### Truck Fuel and Tolls

The landlord is seeking \$102.00 for fuel and tolls to go back and forth to the suite to conduct the repairs. The landlord did not provide any documentation to support this claim such as gas receipts or tolls bills. Based on the insufficient evidence before me, I dismiss this portion of the landlords claim.

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

#### Conclusion

In summary, the landlord has been successful in the following claims:

1.	Mirror	\$33.56
2.	Replacement Light Bulbs	102.34
3.	Baseboards	15.28
4.	Paint and Supplies for Baseboards	42.86
5.	Siding Repair	294.00
6.	Carpet Cleaning	198.40
7.	Replacement Fob	100.00
8.	Filing Fee	100.00
9.		
10.		
	Total	<b>\$886.44</b>

The landlord has established a claim for \$886.44. I order that the landlord retain the \$875.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$11.44. 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: May 23, 2017

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Residential Tenancy Branch