



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes MNDC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for unpaid rent, for damages to the unit and to recover the filing fee from the tenant.

Both parties appeared, gave affirmed testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?  
Is the landlord entitled to monetary compensation for damages?

### Background and Evidence

The tenancy began February 2015. Rent in the amount of \$630.00 was payable on the first of each month. The tenant paid a security deposit of \$300.00. The tenancy ended on June 16, 2016.

The parties agreed a move-in and move-out condition inspection report were not completed.

The landlord claims as follows:

a.	Unpaid rent for June 2016	\$ 630.00
b.	Damages and cleaning	\$3,370.32
c.	Filing fee	\$ 100.00
	<b>Total claimed</b>	<b>\$4,100.32</b>

### Unpaid rent for June 2016

The landlord testified that the tenant did not pay rent for June 2016.

The tenant testified they were not required to pay rent as they had received a Two Month Notice to End Tenancy for Landlord's Use of Property (the "Notice") and June rent was compensation for receiving the Notice.

Damages and cleaning

The landlord testified that the tenant caused damage to the tiles and the carpet. The landlord stated they estimate the cost at \$1,500.00. The landlord confirmed they did not provide a copy of an estimate. Filed in evidence are photographs.

The landlord testified that the dryer not working at the end of the tenancy. The landlord stated they estimated the cost to replace the dryer is \$399.00. The landlord stated they do not know why the dryer was not working. The landlord confirmed they did not provide a copy of an estimate.

The landlord testified that the tank on the toilet was cracked and would not hold water. The landlord stated they estimate the cost is \$160.00. The landlord confirmed they did not provide a copy of an estimate. Filed in evidence is a photograph of the tank.

The landlord stated they are withdrawing their claim for a new refrigerator.

The landlord testified that the tenant took the H.B box at the end of the tenancy. The landlord stated they estimated the cost to replace the box is \$138.00.

The landlord testified that the tenant left garbage behind and the cost for the removal was \$50.00.

The landlord testified that the tenant broke the boards underneath the cabinets. The landlord stated they estimated that the cost of repair is \$150.00. Filed in evidence is a photograph.

The landlord testified that they had to clean the rugs and the stove. The landlord seeks to recover the cost of \$200.00.

The landlord testified that the tenant borrowed their stud finder and never returned it. The landlord seeks to recover the cost of \$99.99.

The tenant testified that they did not cause any damage to the rental unit. The tenant stated there was no damage to the tile or the carpet when they vacated. The tenant stated they do not know when the landlord took the photographs, but the damage was not there when they left.

The tenant testified that the dryer was working at the end of the tenancy.

The tenant testified that the toilet tank was not cracked at the end of the tenancy. The tenant stated the landlord is making this up.

The tenant testified that they did not take the H.D. box. The tenant testified that they did not leave any garbage behind.

The tenant testified that the carpets were cleaned at the end of the tenancy. The tenant stated that they did clean the entire stove. The tenant stated the photograph could have been taken at any time.

The tenant testified that they never had the landlord's stud finder. The tenant stated the landlord did come to the rental unit with the stud finder to help find a stud, but they took the tool when they left.

### Analysis

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

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

### Unpaid rent for June 2016

In this case, the tenant received the Notice, pursuant to section 49 of the Act; the tenant did not pay rent for June, as that was their compensation for receiving the notice. I find the landlord has failed to prove the tenant breached the Act. Therefore, I dismiss this portion of the landlord's claim.

### Damages and cleaning

Section 37 of the Residential Tenancy Act states:

*37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.*

In this case, the landlord did not complete a move-in or a move-out condition inspection report with the tenant. The tenant denies they caused any damage to the rental unit or that they left

the rental unit unclean. The tenant denies the photographs were taken at the end of the tenancy.

While the landlord has provided some photographs that they alleged was damaged caused by the tenant; however, they have not providing supporting evidence, such as a move-in condition report to prove the condition of the rental unit at the start of the tenancy.

Further, the photograph of the toilet tank is on the ground outside, not installed and it appears that the cracks or more likely than not from the tank being dropped, as they are on the underside of the tank.

Furthermore, the landlord did not provided any copies of estimates or receipts for any of the items claimed for my review or consideration.

I find based on the above that the landlord has not met the burden of proof. Therefore, I dismiss the landlord's application without leave to reapply.

#### Conclusion

The landlord's application is dismissed.

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: June 23, 2017

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Residential Tenancy Branch