



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ROYAL LEGAPE MERRITT REAL ESTATE SERVICES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNSD, MND, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for damages to the unit and an order to retain the security deposit in partial satisfaction of the claim.

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 monetary compensation for damages?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

### Background and Evidence

The tenancy began on March 1 2013. Rent in the amount of \$615.00 was payable on the first of each month. The tenant paid a security deposit of \$300.00.

On December 16, 2016, the parties were at a dispute resolution hearing at the hearing the Arbitrator was satisfied that the tenant had breached the Act, by failing to maintain a reasonable state of cleanliness. On January 4, 2017, the Arbitrator ordered the tenancy

to end. The tenancy ended on January 11, 2017. The file number of this hearing is noted on the covering page of this decision.

The landlord claims as follows:

a.	Cleaning	\$ 273.00
b.	Repairs	\$3,110.00
c.	Floor repair	\$1,306.19
d.	Filing fee	\$ 100.00
	<b>Total claimed</b>	<b>\$4,789.19</b>

The landlord testified that the tenant did not clean the rental unit at the end of the tenancy. The landlord stated that the entire premises needed to be cleaned, including the appliances. The landlord seeks to recover 14 hours of labour in the total amount of \$273.00. Filed in evidence is an invoice for cleaning and photographs.

The landlord testified that the rental unit was renovated shortly before the tenancy commenced. The landlord stated at the end of the tenancy there was holes to the doors and walls, which had to be fixed, filled, and sanded. The landlord stated that the cost of the repair was \$3,110.00. Filed in evidence are photographs of doors and walls, which are heavily damaged by what appears to be wholes made by punching or kicking.

The landlord testified that the tenant caused damage to the floors. The landlord stated that there were burn marks, rips and the laminate flooring was broken. The landlord stated the floors were new just before the tenancy commenced.

The tenant testified that they clean up before they left.

The tenant testified that the floor in hallways was not properly finished and each time they opened the door the laminate flooring would pop up causing it to get snagged on the door.

The tenant testified that the walls and doors were damage because they landlord did not have doorstops.

### 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.

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.

Under section 37 of the Act, the tenant is required to return the rental unit to the landlord reasonably clean and undamaged, except for reasonable wear and tear. Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

I accept the landlord's evidence that the tenant did not leave the rental unit reasonably clean. The landlords photographs submitted as evidence, show the carpets, flooring, bathroom and all the appliances were left dirty. I find the tenant breached the Act when they failed to leave the rental unit clean to a reasonable standard and the landlord suffered a loss. Therefore, I find the landlord is entitled to recover the cost of cleaning in the amount of **\$273.00**.

I accept the landlord's evidence that the tenant caused damage to the doors and walls. I find the tenant version that the damage was caused due to the lack of doorstops unreasonable. I find this damage is more consistent with being punched or kicked and an act of vandalism. I find the tenant breached the Act, when they caused damage to the rental unit, and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover the full cost of the repair in the amount of **\$3,110.00**.

I accept the landlord's evidence that the tenant caused damage to the floors; however, I find that the tenant's version possible. However, a tenant must notified the landlord if a problem exists and not to continue causing damage such as in this case. I find the tenant breached the Act, when they damaged the floor, as this is not wear and tear, rather neglect.

However, the floor was four years old at the time of replacement and as I am not satisfied that is was strictly an act of vandalism, I find it appropriate to apply the Residential Tenancy Policy Guideline 40.

Under the Residential Policy Guideline #40, if an item was damaged by the tenant, the age of the item may be considered when calculating the tenant's responsibility for the cost of replacement. As, I have determined that the flooring had a useful life span of 20 years, and the flooring was four years old, the landlord is entitled to the depreciated value of 80 percent. The evidence of the landlord's agent was it cost \$1,306.49 to

replace the flooring. Therefore, I find the landlord is entitled to compensation for the cost of replacing the flooring in the amount of **\$1,045.19**.

I find that the landlord has established a total monetary claim of **\$4,528.19** comprised of the above described amounts and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit and interest of **\$300.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$4,228.19**.

This 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 landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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: July 13, 2017

---

Residential Tenancy Branch