



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding WHITWORTH HOLDINGS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND, MNR, MNSD, FF

### Introduction

This hearing was convened by telephone conference call in response to the Landlord's Application for Dispute Resolution (the "Application") filed on February 14, 2017. The company Landlord applied for a Monetary Order for: damage to the rental unit; unpaid rent; to keep the Tenant's security deposit; and to recover the filing fee from the Tenant.

An agent for the Landlord (the "Landlord"), and the resident manager appeared for the hearing and provided affirmed testimony as well as submitting documentary and photographic evidence in advance of the hearing. However, there was no appearance for the Tenant during the ten minute hearing or any submission of evidence prior to the hearing. Therefore, I turned my mind to the service of documents for this hearing.

The Landlord testified she served the Tenant with a copy of the Application, the Hearing Package, and the evidence by registered mail on February 21, 2017 to the address provided by the Tenant after the tenancy had ended. The Landlord provided the Canada Post tracking number into oral evidence, which is detailed on the front page of this Decision, to verify this method of service. The Landlord testified that the Canada Post website shows that the documents were received and signed for on February 22, 2017

Based on the undisputed evidence before me, I find the Tenant was served with the documents for this hearing pursuant to Section 89(1) (c) of the *Residential Tenancy Act* (the "Act"). The hearing continued to hear the undisputed evidence as follows.

### Issue(s) to be Decided:

- Did the Tenant end the tenancy in accordance with the Act?
- Is the Landlord entitled to unpaid rent and cleaning costs?

- Is the Landlord entitled to keep all of the Tenant's security deposit in partial satisfaction of the monetary claim?

### Background and Evidence

The Landlord testified that this tenancy started on October 1, 2015 for a fixed term of six months which continued on a month to month basis thereafter. Rent in the amount of \$900.00 was payable by the Tenants on the first day of each month. This was increased during the tenancy to \$926.00 per month. The Tenant paid a \$450.00 security deposit on September 28, 2015 which the Landlord still retains in trust. The resident manager completed a move-in Condition Inspection Report (the "CIR") at the start of the tenancy with the Tenant.

The Landlord testified that towards the end of January 2017, the Tenant intimated that she would be ending the tenancy on January 31, 2017 as she had found another place to rent. The Landlord testified that she informed the Tenant that she was still obligated to pay rent for February 2017 as this was not sufficient notice to end the tenancy and to find a new renter for February 2017. The Tenant then emailed the Landlord on January 23, 2017 stating that she would be vacating the rental unit on January 31, 2017.

The Landlord testified that on January 31, 2017, it came to her attention that the Tenant had abandoned the rental unit and when she entered the rental unit, there was a note left for the Landlords stating "I'm sorry please forgive me I couldn't pay for another month and my body is incapable of doing any more cleaning". In the same letter the Tenant listed a number of items that she had not cleaned, namely the: stove/oven; vacuum; sweep; floor wash; and windows.

The Landlord testified that they were unable to re-rent the rental unit for February 2017 and when they cashed the Tenant's rent cheque for February 2017, it was returned back for the reason of insufficient funds. Therefore, the Landlord claims unpaid and lost rent in the amount of \$926.00. The Landlord testified that the carpets had not been shampooed or cleaned by the Tenant and when they were done professionally by the Landlord it took two washes to get them cleaned. The Landlord provided an invoice for the carpet cleaning in the amount of \$200.00.

The Landlord testified that pursuant to the Tenant's letter regarding the lack of cleaning, the Tenant had only cleaned the bathrooms but the windows, appliances, and walls were filthy and needed cleaning. The Landlord provided photographic evidence and referred me to the move-out CIR which was completed in the absence of the Tenant.

The Landlord testified that the resident manager was employed as a separate contractor to clean the rental unit for a total of eight hours at \$200.00 in order to mitigate the cost of using a professional cleaning company. The resident manager testified to and provided an invoice for the cleaning she had performed in the rental unit.

The resident manager testified that she received mail for the Tenant at the rental unit and when she contacted the Tenant on February 12, 2017 the Tenant provided her forwarding address for the return of her mail. The Landlord then used this address to serve the Tenant with notice of this hearing.

### Analysis

In relation to the Landlord's claim for unpaid and lost rent for February 2017, Section 45(1) requires a tenant who wants to end a periodic (month to month) tenancy to provide to the landlord written notice of at least one full rental month before the tenancy can be properly ended. Therefore, if the Tenant wanted to end the tenancy for the end of January 2017, the Tenant would have been required to serve the Landlord with proper written notice no later than December 31, 2016.

However, the Tenant failed to give the Landlord sufficient time as required by the Act to end the tenancy which did not enable the Landlord to mitigate loss by re-renting the rental unit for February 1, 2017. Therefore, I grant the Landlord unpaid rent of **\$926.00**.

Section 37(2) (a) of the Act requires a tenant to leave a rental unit reasonably clean and undamaged at the end of a tenancy. In addition, Section 21 of the *Residential Tenancy Regulation* allows a CIR to be considered as evidence of the state of repair and condition of the rental unit, unless a party has a preponderance of evidence to the contrary.

Policy Guideline 1 to the Act which details the responsibility of both the landlord and a tenant for residential premises states that generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.

I accept the Landlord's undisputed: photographic evidence; oral testimony; CIR; and the Tenant's letter left in the rental unit at the end of the tenancy, as sufficient evidence which convinces me that the Tenant failed to clean the rental unit and the carpets at the

end of the tenancy. The Tenant failed to appear for this hearing to provide evidence to rebut the Landlord's compelling evidence.

I accept the Landlord's costs sought from the Tenant for the cleaning of the rental unit as verified by the invoice evidence. Accordingly, I award the amount claimed by the Landlord attributed to cleaning for a total of **\$410.00**.

As the Landlord has been successful in this claim, pursuant to Section 72(1) of the Act, the Landlord is also entitled to recover from the Tenant the **\$100.00** filing fee for the cost of this Application. Therefore, the total amount awarded to the Landlord is **\$1,436.00**. As the Landlord already holds \$450.00 in the Tenant's security deposit, I order the Landlord to retain this amount in partial satisfaction of the claim awarded, pursuant to Section 72(2) (b) of the Act.

As a result, the Landlord is issued with a Monetary Order for the remaining balance in the amount of **\$986.00**. This order must be served on the Tenant and may then be filed in the Small Claims Division of the Provincial Court and enforced as an order of that court if the Tenant fails to make payment. The Tenant may also be held liable for any enforcement costs incurred by the Landlord. Copies of the Monetary Order are attached to the Landlord's copy of this Decision.

### Conclusion

The Tenant failed to give proper notice to end the tenancy and failed to leave the rental unit clean and undamaged. The Landlord may keep the Tenant's security deposit and is issued with a Monetary Order for the outstanding balance of the monetary claim in the amount of \$986.00. This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: July 20, 2017

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Residential Tenancy Branch