



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNDC, MNR, MNSD, FF, O  
                             MNSD, OLC, FF

### Introduction

This hearing was convened by way of conference call concerning applications made by the landlord and by the tenant. The landlord has applied for a monetary order for damage to the unit, site or property; a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; a monetary order for unpaid rent or utilities; an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application. The tenant has applied for a monetary order for return of all or part the security deposit or pet damage deposit; for an order that the landlord comply with the *Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord.

The landlord attended the hearing and gave affirmed testimony, however the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant attended the call. The landlord testified that the landlord's application and notice of this hearing was served upon the tenant on May 15, 2017 by registered mail and has provided a copy of a Registered Domestic Customer Receipt bearing a stamp with that date by Canada Post. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Since the tenant has not attended the hearing, I dismiss the tenant's application.

### Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenant for damage to the unit, site or property?
- Has the landlord established a monetary claim as against the tenant for unpaid rent or utilities?

- Has the landlord established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for cleaning the rental unit and yard?
- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

### Background and Evidence

The landlord testified that this fixed-term tenancy began on May 1, 2016 and expired on April 30, 2017 at which time the tenancy was to end and the tenant was required to vacate the rental unit. However, the tenant sent the landlord an email on February 21, 2017 advising that he was moving out on April 7, 2017, which he did. The rental unit is a single family dwelling, and a copy of the tenancy agreement has been provided as evidence for this hearing.

Rent in the amount of \$1,650.00 per month was payable on the 1<sup>st</sup> day of each month, however the landlord agreed that the tenant could pay in installments every 2 weeks, and the last payment of the fixed term was on April 7, 2017 for \$761.54, but the tenant didn't pay it.

During the course of the tenancy the landlord collected a security deposit from the tenant in the amount of \$825.00 which is still held in trust by the landlord, and no pet damage deposit was collected. On May 1, 2017 the landlord found a note in the mailbox from the tenant asking for the security deposit and providing a forwarding address to send it to. The landlord filed the application for dispute resolution on May 10, 2017 claiming against the security deposit.

The landlord further testified that a move-in condition inspection report was completed by the parties at the beginning of the tenancy and a move-out condition inspection report was completed by the parties at the end of the tenancy on April 11, 2017 but the tenant refused to sign the report. A copy has been provided as evidence for this hearing.

The landlord testified that there were numerous damages in the rental unit, and it appeared that the tenant had not cleaned the rental home at all during the tenancy. Photographs have been provided as evidence which the landlord testified were taken on April 11, 2017 during the move-out condition inspection. The tenant sublet to another person without the landlord's knowledge or permission, and neither of them did any cleaning or maintain the yard as required, and the entire home was pretty atrocious.

The landlord has provided a Monetary Order Worksheet setting out the following claims:

- \$1,050.00 – for wall damage repair;

The tenant's roommate put up TV and book cases on mounts on the wall. An invoice in the amount of \$1,470.00 has been provided, but a seam also needed to be repaired which the landlord does not claim against the tenant, and claims \$1,050.00 of the Invoice. Although the work has not yet been completed, the landlord will not be doing the work and will have to hire a contractor.

- \$907.62 carpet damage and repair cost;

The landlord testified that the tenant's guest burned carpet which was about 3 ½ years old at the beginning of the tenancy. An estimate has been provided for this hearing, which the landlord testified is for the same type of carpet that was in the rental unit at the beginning of the tenancy.

- \$80.00 for cleaning vent ducts;

The landlord testified that the tenant's guest plugged vents with his jeans, and the vents had to be cleaned.

- \$67.20 power raking yard;

The yard was left in poor condition at the end of the tenancy, and the landlord told the tenant at the beginning of the tenancy that he had to rake and cut grass, but didn't do well with yard maintenance. The claim is for renting a power rake.

- \$682.50 to clean up yard;

The landlord has included an estimate of the cost for cleaning the yard and shopped around. The claim is for the landlord's time, being 10 hours to clean up the yard.

- \$598.50 to clean house;

During the condition inspection, it smelled through-out like pot, and the tenant or his guest had a cat. The landlord's spouse is very allergic and couldn't even enter the rental unit. All hardwood and carpet floors were left black. Walls were left smeared with pop-cycles or freezies. The kitchen appliances were not clean, window sills covered with black mold. The landlord estimates that it took about 22 hours over 2 days to clean the rental unit and the landlord took time off work to do so.

- \$761.54 unpaid rent;

- \$25.00 late rent fee;
- \$100.00 for the filing fee.

The landlord's claim is \$761.54 for unpaid rent, \$25.00 for late fees, recovery of the \$100.00 filing fee, and \$3,385.82 for damages and cleaning inside and outside, for a total of \$4,272.36.

### Analysis

Where a party makes a claim or damages against another party, the onus is on the claiming party to satisfy the 4-part test:

1. that the damage or loss exists;
2. that the damage or loss exists as a result of the other party's failure to comply with the *Residential Tenancy Act* or the tenancy agreement;
3. the amount of such damage or loss; and
4. what efforts the claiming party made to mitigate the damage or loss suffered.

A tenant is required to leave a rental unit at the end of a tenancy reasonably clean and undamaged except for normal wear and tear, and must repair any damage caused by the tenant or the tenant's guests. In this case, I have reviewed the move-in/out condition inspection reports and photographs, and I accept the undisputed testimony of the landlord that the tenant participated but refused to sign the move-out portion. The *Act* states that the reports are evidence of the condition of the rental unit.

With respect to wall damage, I have reviewed the invoice and accept that the landlord has decreased the claim by \$400.00 due to a portion the landlord feels is the landlord's responsibility, and I accept the \$1,050.00 claim.

With respect to replacing carpet, Residential Tenancy Policy Guideline #40 – Useful Life of Building Elements puts the life of carpet at 10 years, and pro-rating that, I find that the landlord has established a claim of \$589.95 ( $\$907.62 / 10 \times 3.5 = \$317.67$ .  $\$907.62 - \$317.78 = \$589.95$ ).

I also accept the landlord's claim of \$80.00 for cleaning vents and \$67.20 for renting a power rake.

I have also reviewed the estimates provided by the landlord for cleaning up the yard and cleaning the house after the tenancy had ended. Although the landlord did not hire the companies that gave the estimates, the landlord provided them as a bench-mark of the

costs that would be associated with such work, and I accept the \$682.50 and \$598.50 claims.

I also accept the landlord's undisputed testimony with respect to unpaid rent of \$761.54 and the claim for late fees of \$25.00.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

In summary, I find that the landlord has established unpaid rent in the amount of \$761.54, \$25.00 for a late rent fee, damages amounting to \$3,068.15 including cleaning inside and outside the rental home, and \$100.00 for recovery of the filing fee, for a total of \$3,954.69.

I order the landlord to keep the \$825.00 security deposit in partial satisfaction of the claim and I grant a monetary order in favour of the landlord for the difference in the amount of \$3,229.69.

### Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety without leave to reapply.

I hereby order the landlord to keep the \$825.00 security deposit and I grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$3,229.69.

This order is final and binding and may be enforced.

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: October 11, 2017

---

Residential Tenancy Branch