



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes FF MNDC MNR O

### Introduction

This hearing dealt with an application by the landlords pursuant to the *Residential Tenancy Act* for orders as follows:

- a monetary order for unpaid rent and late fees, and for money owed or compensation for damage or loss under the *Act* or tenancy agreement pursuant to section 67;
- to recover the filing fee from the tenants for the cost of this application pursuant to section 72; and
- Other unspecified relief.

Tenant J.S. appeared at the hearing on behalf of the tenants, while both landlords were present for the hearing. Both parties were given full opportunity to be heard, to present evidence and to make submissions.

The tenant acknowledged receipt of the landlords' application for dispute resolution by way of Canada Post Registered Mail on May 5, 2017. Pursuant to section 89 of the *Act*, the tenants are found to have been duly served under the *Act*.

Following opening remarks, the landlords questioned whether the tenants' evidentiary package should be allowed into the hearing. They explained that it had only been received on September 26, 2017.

*Residential Tenancy Rule of Procedure 3.14* states, "The respondent must ensure evidence that the respondent intends to rely on at the hearing is served on the applicant and submitted to the Residential Tenancy Branch as soon as possible. Subject to Rule 3.17, the respondent's evidence must be received by the applicant and the Residential Tenancy Branch not less than seven days before the hearing." I find that the respondent tenants have fulfilled their duty under *Residential Tenancy Branch Rule of Procedure 3.17* and will therefore allow their evidence at the hearing.

### Issue(s) to be Decided

Are the landlords entitled to a Monetary Order for unpaid rent and for damage to the rental unit?

Can the landlords recover the filing fee from the tenants?

### Background and Evidence

A copy of the residential tenancy agreement entered into evidence by both parties shows that this tenancy began on May 1, 2013. Rent was \$2,100.00 per month and a security deposit of \$1,050.00 was

collected at the outset of the tenancy. On March 8, 2017 the parties attended a hearing before an arbitrator with the *Residential Tenancy Branch*. Following this hearing the arbitrator ruled that the tenants were entitled to a monetary award of \$2,200.00 because the landlords had failed to fulfill their responsibilities related to the return of the security deposit under section 38 of the *Act*.

In their application before me, the landlords sought a monetary order of \$1,299.40. The landlords explained that this figure represented the following expenses they incurred as a result of the tenancy:

Item	Amount
Professional cleaning on December 13, 14 & 15, 2016	\$560.00
Carpet Cleaning	62.50
Window Cleaning	175.00
Carpet Cleaning Equipment Rental	30.80
Carpet Cleaning Solution	13.99
Light Bulb Replacement	33.69
Deck Flood Light Replacement	25.10
Water Filter Replacement	61.58
Central Vacuum Bag Replacement	24.14
Replacement screen for Patio Door	60.00
Replacement Screen and aluminum frame on lower bathroom window	50.00
Replacement hand tools for Central Vacuum	25.00
Vacuum Power head – dismantled, cleaned and checked	45.00
Unpaid utilities for August 23, 2016 to December 3, 2016	132.60
<b>Total =</b>	<b>\$1,299.40</b>

The landlords explained that following the conclusion of the tenancy the tenants had left the premises in a state which required the service of professional cleaners for 3 days after the tenants moved out, in December 2016. As part of the landlords' evidentiary package, the landlords supplied a letter from the owner and operator of the janitorial service they hired to have their home cleaned. This letter dated February 9, 2017 explained that she was asked to clean the following areas and "anything else I saw that was necessary." This letter recorded that cleaning was required in:

- Kitchen cabinets, inside and out including the tops of the cabinets, countertops and backsplash
- Behind fridge, stove including oven

- Bathrooms including tubs, toilets, shower, countertops, backsplash and cabinets
- Tops of door frames, doors, door knobs, baseboards, baseboard heaters
- Wall areas where necessary
- Floors, tile and hardwood.

In addition to these areas, the letter from the cleaning company detailed maggots that were discovered under the fridge and stove.

During the course of the hearing the landlords explained that carpet cleaning was required in the suite, along with a replacement of numerous lightbulbs. The landlords continued their testimony by noting that the tenants had failed to replace the water filter in the fridge and the bag in their central vacuum cleaner as had been agreed to orally by the parties at the start of the tenancy. Additionally, the landlords sought the replacement of some tools associated with the central vacuum cleaner that they said were missing following the conclusion of the tenancy, along with the replacement of two window screens which they said were damaged and missing following the tenancy.

The final aspect of the landlords' application for a monetary award involved an unpaid power bill for the time period of August 23, 2016 to December 3, 2016.

The tenant disputed the landlords' assertion that further cleaning in the rental unit was required. She explained the professional cleaners the tenants hired, attended to the property for an entire day, and that they focused specifically on the kitchen and the home's three bathrooms. Additionally, the tenant said that she and a friend who operated a cleaning business, spent 1 week cleaning the home as it was being packed up for the tenants' move.

The tenant acknowledged that a stain was present on the carpet but attributed that to normal wear and tear. The tenant denied any knowledge of the missing items associated with the central vacuum or the broken window screen and frame. She testified that she and her family had never used the central vacuum during the tenancy and that the window screen was broken when she and her family moved into the rental unit. She explained that all items associated with the vacuum were placed in a box above the central unit and that the landlords were informed in the summer of 2015 that the window screen needed to be replaced. She said that it was difficult to determine what was clean and what required further attention because the landlords had failed to attend a condition inspection walk through following the conclusion of the tenancy. The landlords disputed this; however, the arbitrator during the March 8, 2017 hearing determined that landlords had failed to perform an outgoing condition inspection report in accordance with section 38 of the *Act*.

The tenant agreed that all costs associated with the outstanding hydro bill were due to the landlords and should have been dealt with following the conclusion of the tenancy.

### Analysis

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 landlords to prove their entitlement to a monetary award.

As the tenant had agreed that the hydro bill remains outstanding and should be paid, I will award \$132.60; which is the amount requested by the landlords, and I will now focus my analysis on the remainder of the landlords' claim.

In order to determine whether the landlords are entitled to any compensation under section 67 of the *Act*, I will examine *Residential Tenancy Policy Guideline #1* which details the Landlord & tenant - Responsibility for Residential Premises.

The landlords are seeking \$58.79 for the replacement of various lightbulbs in the rental unit and for the replacement of lightbulbs on the deck. Section 1-5 of *Policy Guideline #1* states, "the tenant is responsible for replacing light bulbs in his or her premises during the tenancy." I find based on the testimony of the landlords that numerous lightbulbs required replacement following the conclusion of the tenancy. Based on the direction of *Policy Guideline #1*, I find the landlords are entitled to a return of the money requested for the replacement of the lightbulbs.

During the hearing the tenant testified that she had no knowledge of any issues associated with the windows of the rental home. The landlords are seeking a total of \$285.00 for cleaning associated with the windows, along with a replacement of a window screen and an aluminum frame. *Residential Tenancy Policy Guideline #1* section 1-3 states, "At the beginning of the tenancy the landlord is expected to provide the tenant with clean windows, in a reasonable state of repair...the tenant is responsible for cleaning the inside window and tracks during, and at the end of the tenancy, including mould. The tenant is responsible for cleaning the inside and outside of the balcony doors, windows and tracks during and at the end of the tenancy. The landlord is responsible for cleaning the outside of the windows, at reasonable intervals."

At the hearing the tenant testified that the window screen was already damaged at the start of the tenancy. I found the tenant to be a credible witness and found that the landlords were unable to sufficiently rebut this assertion. Based on the testimony of the tenant and after an examination of *Residential Tenancy Guideline #1*, I find that the tenants are not responsible for the replacement of the window screen or frame as it could not be accurately shown whether or not the tenants had damaged the screens during the tenancy. Furthermore, the tenants are only responsible for the cleaning associated with the inside of the windows and the outside of the balcony doors and windows. I will therefore award the landlords half of the cleaning for the windows, in consideration of the mould present on the inside of the window frames. The landlords are entitled to a monetary award of \$87.50 for half of the window cleaning.

### *Carpets*

The tenant testified that the carpets had been cleaned upon move out; however, she acknowledged that a stain remained in the carpet despite efforts to steam clean the carpet. She had therefore fulfilled her duty under Section 1 of the *Policy Guideline* which says, "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 the tenancy.”

The tenant argued that after 4 years of occupation, it was inevitable that the home would sustain normal wear and tear. *Residential Tenancy Policy Guideline #40* examines the Useful Life of Building Elements. This *Guideline* is a general guide for determining the useful life of building elements for determining damages. This *Guideline* notes, “When applied to damages caused by a tenant, the arbitrator may consider the useful life of a building element and the age of the item. Useful life is the expected lifetime, or the acceptable period of use, of an item under normal circumstances.”

According to the table contained in section 40-5 of the *Police Guideline* the useful life of a carpet is 10 years. Testimony provided to the hearing by the landlord explained that the home was built in 2006 and that no major repairs or renovations had taken place in this time. The carpet was therefore beyond its Useful Life. With this in mind, I must consider the loss that the landlord experienced under the tenancy which was the result of a seemingly accidental stain. *Policy Guideline #40* is not mandatory. It is evident that, apart from the stain, the carpet in question was still in a sound functioning state, so the landlords are entitled to some compensation for the damage due to it.

### *Cleaning*

The landlords are seeking \$560.00 for the cost of a professional cleaner who attended to the property on December 13, 14 & 15, 2016. The tenant argued that no further cleaning of the home should have been required as she had previously hired a professional cleaning service to perform a full clean up, and along with the help of a friend who ran a cleaning company, personally cleaned the home for one week prior to the tenants’ departure.

A letter supplied to the hearing by the landlords’ cleaner described the extent of the cleaning required following the conclusion of the tenancy. Section 32(2) of the *Act* says, “A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.” Section 37(2) of the *Act* expands upon this point, noting that, “When a tenant vacates a rental unit, the tenant must (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.”

Further detail on a tenant’s responsibilities regarding cleaning are contained in *Policy Guideline #1* which says, “At the end of the tenancy the tenant must clean the stove top, elements and oven, defrost and clean the refrigerator, wipe out the inside of the dishwasher.” This *Guideline* continues by stating, “If the refrigerator and stove are on rollers, the tenant is responsible for pulling them out and cleaning behind and underneath at the end of the tenancy. If the refrigerator and stove aren’t on rollers, the tenant is only responsible for pulling them out and cleaning behind and underneath if the landlord tells them how to move the appliances without injuring themselves or damage the floor. If the appliance is not on rollers and is difficult to move, the landlord is responsible for moving and cleaning behind and underneath it.”

As part of their evidentiary package, the landlords provided photos which their cleaner had taken of the rental home while she performed her cleaning duties. These photos, along with a letter from the cleaner depict several issues with the home that would fall below leaving the unit, “reasonably clean” as per section 37(2) of the *Act*.

While these short comings are evident, I find that the tenants did make a concerted effort to clean the rental unit. I will therefore award the landlords a return of 2/3 of their cleaning bill, representing a return of 2 out of the 3 days that their cleaner attended to the property, as some credit must be given to the tenants for attempting to clean the home. This represents a return of \$373.33 of the landlords' cleaning invoice.

#### *Vacuum*

The landlords are seeking \$94.14 for the replacement of tools associated with the central vacuum and a replacement of the unit's bag. The landlords said that they had an oral agreement with the tenants to replace the bag following the conclusion of the tenancy. In addition, the landlords explained that several attachments that belonged to the vacuum were missing following the tenancy. The tenant denied ever using the unit and explained she had no knowledge of the whereabouts of the missing attachments. An examination of the evidence reveals no documentation supporting the landlords' assertion that an agreement was reached between the parties for a replacement of the central vacuum bag. I accept the testimony of the tenant that she used her own personal vacuum during the tenancy, and had no knowledge of the whereabouts of the central vacuum attachments. For these reasons, I dismiss the landlords' claim for compensation related to the central vacuum.

#### *Fridge*

As with the central vacuum, the landlords alleged that an oral agreement was reached with the tenant that the refrigerator filter was to be replaced following the conclusion of the tenancy. An examination of the Condition Inspection Report completed at the start of the tenancy by the parties shows that the, "refrigerator filter needs replacing." The agreement is silent on the tenant's responsibilities at the conclusion of the tenancy. *Policy Guideline #1* states that, "the landlord is responsible for repairs to appliances provided under the tenancy agreement unless the damage was caused by the deliberate actions or neglect of the tenant." I find no evidence that the tenant damaged the water filter either deliberately or through neglect. I therefore, decline to grant a monetary award for a replacement of the fridge filter.

As the landlords were partially successful in their application, they may recover the \$100.00 filing fee from the tenant.

#### Conclusion

I issue a Monetary Order of \$859.51 in favour of the landlords as follows:

Item	Amount
Unpaid Hydro	\$132.60
Lightbulb Replacement	33.69
Lightbulb Replacement - Deck Flood Light	25.10
½ of Window Cleaning	87.50
Carpet Cleaning Labour	62.50
Carpet Cleaning Equipment Rental	30.80
Carpet Cleaning Solution	13.99
2/3 of Cleaning	373.33
Recovery of Filing Fee	100.00

<b>Total =</b>	\$859.51

The landlords are provided with a Monetary Order in the above terms and the tenants must be served with this Order as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: October 12, 2017

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Residential Tenancy Branch