



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND FF

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on November 7, 2017. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit; and,
- to recover the cost of the filing fee.

The Landlord and Tenant both attended the hearing. All parties provided affirmed testimony. The Tenant confirmed she received the documentary evidence from the Landlord at the same time she got the application package from him.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Is the Landlord entitled to compensation for damage to the unit?
- Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The parties testified that the tenancy commenced in August 2014. The parties testified that rent was \$810.93 per month. The Landlord provided a copy of the tenancy agreement and the Notice of Rent Increase documents to support this.

The Landlord is requesting compensation for the following items:

Item	Amount
Cleaning Expenses	\$90.00 (6 hours @ \$15/hr)
Kitchen counter replacement	\$1,000.00
Carpet replacement	\$500.00
Exterior door replacement	\$151.92
Interior door and frame	\$178.18

### Cleaning Expenses

The Landlord stated that the Tenant left the unit very dirty, and that he had to spend hours cleaning out the cupboards, and washing the floors several times. The Landlord stated that it took him several passes to clean the floors and cupboards because there were so many layers of dirt that had built up over the course of the tenancy. The Landlord stated that the blinds were filthy, and they all needed cleaning by hand. Further, the Landlord provided a couple of photos of the debris left in the area behind the appliances in the kitchen.

The Tenant testified that the Landlord did not do a move in or move out inspection, and has provided no evidence to support how the rental unit looked at the start of the tenancy. The Tenant testified that she cleaned the unit fairly well, and that the Landlord is exaggerating the mess she left.

### Kitchen Counter Replacement

The Landlord testified that the Tenant ruined the kitchen countertops and wore through the surface in spots. The Tenant stated the countertop was not brand new when she moved in, and the Landlord used old materials when he replaced them prior to her moving in. The Landlord provided a copy of an email (from himself to himself), which contained a cut and pasted text message from his contractor stating that the cost for the counter replacement was \$1,000.00. The Landlord provided a copy of another email (from himself to himself), which contained a copy of a text message from the Tenant. This text message indicated that the damage to the countertops was from cleaning products she used, and from not using a cutting board. The Tenant appeared to acknowledge that there were some wear spots and suggested that the Landlord could have covered them up with vinyl tile rather than replace the whole countertop.

*Carpet Replacement*

The Landlord stated that the Tenant's cat damaged the carpet (and provided a photo of the damage). The Tenant stated that the carpets were not new when she moved in, and they had stains on them. The Landlord acknowledged that the carpets may not have been new at the start of the tenancy. The Tenant acknowledged that her cat caused some damage to the carpet but stated that it was not necessary to replace all the carpet, and only the one spot should have been replaced. The Landlord provided a copy of an email (from himself to himself), which contained a cut and pasted text message from his contractor stating that the cost for the carpet replacement was \$500.00. The Landlord also provided a copy of an email (from himself to himself), which contained a copy of a text message from the Tenant. This text message indicated that the cat did some damage to the carpet.

*Exterior door and interior door*

The Landlord provided 4 photos of the exterior door damage caused by the tenant. The Tenant acknowledged damaging this door and that she is willing to pay to repair it. The Landlord also provided 2 photos of the interior door/frame showing the damage caused by the Tenant. The Tenant acknowledged that this damage was caused by her boyfriend and stated she is willing to pay the Landlord to repair it. Costs for these doors were printed from the Home Depot website and the amounts were as specified in the chart above.

*Analysis*

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

*Exterior door and interior door*

Both parties agree that the Tenant is responsible for the damaged exterior door as well as the damaged interior door. The Landlord provided a printout of the cost to replace these doors. I find the Landlord is entitled to compensation for these doors as follows:

Exterior door replacement	\$151.92
Interior door and frame	\$178.18

*Condition Inspection Report*

Sections 23 and 35 of the Act states that a Landlord and Tenant together must inspect the condition of the rental unit on the day the Tenant is entitled to possession of the rental unit, and at the end of the tenancy before a new tenant begins to occupy the rental unit. Both the Landlord and Tenant must sign the condition inspection report and the Landlord must give the Tenant a copy of that report in accordance with the regulations.

Section 21 of the Residential Tenancy Regulation states:

*in dispute resolution proceedings, a condition inspection report completed in accordance with this Part is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.*

I find there is insufficient evidence that the Landlord performed a move in and move out inspection with the Tenant as required by the Act. Further, I find the Landlord has provided no evidence to show what the condition of the rental unit was at the beginning of the tenancy.

### Carpet Replacement

Although the Tenant acknowledges that her cat may have caused some damage to the carpet, I note that the carpet was likely not new when the Tenant moved in (Tenant asserts there were already stains and marks on it). Also, the overall age of the carpet is unclear. Overall, I find there is very little evidence to establish the condition of the carpet at the time the Tenant moved in.

The Residential Tenancy Policy Guideline # 16 Claims in Damages states:

*An arbitrator may award monetary compensation only as permitted by the Act or the common law. In situations where there has been damage or loss with respect to property, money or services, the value of the damage or loss is established by the evidence provided.*

*An arbitrator may also award compensation in situations where establishing the value of the damage or loss is not as straightforward:*

*“Nominal damages” are a minimal award. Nominal damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right.*

*A party seeking compensation should present compelling evidence of the value of the damage or loss in question.*

The Residential Tenancy Policy Guideline #1 Landlord & Tenant – Responsibility for Residential Premises states:

*a tenant is generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest.*

In this case, I find the Landlord is entitled to some compensation for the carpets, since the Tenant acknowledged that her cat caused some of the damage. However, given the lack of evidence surrounding the age and condition of the carpets at the time the Tenant moved in, I am only awarding a nominal amount of \$50.00 (10% of the Landlord's claim on this matter).

#### Kitchen counter

I note that the Tenant acknowledges that there were some wear spots on the countertop when she moved out. However, the Tenant further stated that, even if the Landlord put in new countertops before she moved in, he used old materials, and they did not wear very well. In any event, it is unclear how old the counters were when the Tenant moved out. Further, I find there is very little evidence to establish the condition of the countertops at the time the Tenant moved in.

Nonetheless, pursuant to Residential Tenancy Policy Guideline # 16, I find the Landlord is entitled to some compensation for the countertops, since the Tenant acknowledged that she caused significant wear in some areas. However, given the lack of evidence surrounding the age and condition of the countertops at the time the Tenant moved in (and no photos of the countertop damage), I am only awarding a nominal amount of \$100.00, which is 10% of the Landlord's claim on this matter.

#### Cleaning costs

The Landlord provided photos of the stove, showing debris and mess, which was not cleaned properly when the Tenant moved out. The Landlord also provided another photo, which appears to be behind the fridge, showing debris left behind. Further, the Landlord testified that he had to clean the blinds and the floors several times in order to remove the layers of dirt left by the Tenant. Although the Tenant says the Landlord has exaggerated the amount of mess left, I find there is sufficient evidence to show that some cleaning would have been required. I find the Landlord's request for compensation on this matter is reasonable and I find the Tenant should compensate the Landlord in the amount of \$90.00 for cleaning (6x\$15.00/hr).

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was substantially successful with his

application, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

In summary, I find the Landlord is entitled to the following monetary order:

<b>Item</b>	<b>Amount</b>
Cleaning Costs	\$90.00
Carpets	\$50.00
Countertops	\$100.00
Interior and Exterior Doors	\$330.10
PLUS: FILING FEE	\$100.00
<b>Total Amount</b>	<b>\$670.10</b>

### Conclusion

The landlord is granted a monetary order in the amount of **\$670.10**, as specified above. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: November 08, 2017

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Residential Tenancy Branch