



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 539256 AB INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for unpaid rent, 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

Are the landlords entitled to a monetary order for unpaid rent?

Are the landlords entitled to monetary compensation for damages?

Are the landlords entitled to retain the security deposit in partial satisfaction of the claim?

### Background and Evidence

Rent in the amount of \$1,250.00 was payable on the first of each month. The tenant paid a security deposit of \$600.00. The tenancy ended on or about June 4, 2017.

The landlord claims as follows:

a.	Unpaid rent for April 2017 & bank fee	\$1,257.00
b.	Cleaning	\$1,363.20
c.	Burnt out light bulbs	\$ 13.84
d.	Painting	\$ 210.00
e.	Replacement of key	\$ 94.50
f.	Filing fee	\$ 100.00
	<b>Total claimed</b>	<b>\$3,038.54</b>

#### Unpaid rent for April 2017

The landlord testified that the parties ended the tenancy by mutual agreement and it was at that time that they told the tenant they would not be required to pay rent for May 2017, as the intent was for landlord's use of property.

The landlord testified that the tenant must have been confused as the tenant placed a stop payment on April 2017, rent. The landlord stated that they were charged a service fee of \$7.00 for the return of the tenant's cheque. The landlord seeks to recover unpaid rent for April 2017, and the service fee in the amount of \$1,257.00.

The tenant testified that they placed a stop payment on April 2017, rent, as that was their compensation based on landlord's use of property. The tenant stated the landlord told them that rent for May 2017, was free.

#### Cleaning

The landlord testified that the rental unit was left dirty and that they had to clean the appliance, scrub the walls, and clean the bathroom. The landlord stated that the entire rental unit needed to be cleaned. The landlord stated that it took them three days for a total of 42 hours at the rate of \$25.00 to clean the premises, plus the cleaning supplies. The landlords seek to recover the total amount for cleaning and supplies in the amount of \$1,363.20.

The tenant testified that they left the rental unit reasonably clean. The tenant stated that their daughter is a registered nurse and ensure their premise is clean. The tenant stated that their granddaughter also does cleaning for a living and she cleans the premises every two or three weeks. The tenant stated that the landlord had the carpets

removed and the place repainted and it is more likely that they are charging for their time from cleaning up after the work was completed as the property had been sold.

The tenant testified that the only problem that the landlord had at the end of the tenancy was that the mirror was streaked. The tenant stated they asked the landlord if they wanted their cleaner to return to clean in it and they responded not to worry about it.

#### Burnt out light bulbs

The landlord testified that the tenant left burnt out lights bulbs and they seek to recover the cost of the bulbs in the amount of \$13.84. Filed in evidence is a receipt.

The tenant acknowledged that they might have been some burnt out lights when they vacated.

#### Painting

The landlord testified that the tenant caused damage to the doorframes and master bedroom closet. The landlord stated that these had to be painted. The landlord seeks to recover the cost of painting in the amount of \$210.00.

The tenant testified that the landlords had the entire rental unit repainted. The tenant stated they are not responsible for any portion of the painting.

#### Replacement of key

The landlord testified that the tenant gave them a key that was for the mailbox; however, it was not the correct mailbox key. The landlord stated that they had to have the locked replaced. The landlords seek to recover the replacement lock in the amount of \$94.50. Filed in evidence is a locksmith receipt.

The tenant testified that they gave back the key to the mailbox. The tenant stated that they were told that someone else had broken the lock and that is why the locksmith attended to replace the lock.

#### 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.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

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.

#### Unpaid rent for April 2017 and service fee

In this case, the tenant was not served with a Two Month Notice to End Tenancy for Landlord's Use of Property. The tenancy was ended by a mutual agreement to end the tenancy. Filed in evidence is a copy of the signed mutual agreement to end the tenancy.

Although compensation is not required when a tenancy ends in this matter, the landlords agreed that the rent for May 2017 would be free. The tenant provided no evidence that they had the right under the Act, to place a stop payment on April 2017, rent. I find the tenant breached the Act, and this caused losses to the landlords. Therefore, I find the landlords are entitled to recover unpaid rent and the service fee in the amount of **\$1,257.00.**

#### Cleaning

I am not satisfied that the landlords have proven their claim. While I accept there was minor cleaning to be done, such as underneath the stove. I find the photographs do not support the rental unit was left unreasonably clean. The photographs submitted as evidence have been taken at close range and do not show the entire rental premises from a reasonable review for me to consider.

Further, I find 42 hours of labour excessive and not supported by the evidence. Therefore, I dismiss this portion of the landlords claim without leave to reapply.

#### Burnt out light bulbs

The tenant acknowledged that they might have been burnt out lights. I find the tenant breached the Act, when they failed to replace the light bulbs, and this caused losses to the landlords. Therefore, I find the landlords are entitled to recover the amount of **\$13.84**.

#### Painting

The landlords did not complete a move-in condition inspection report to prove the condition of the rental unit at the start of the tenancy. Further, I am not satisfied that the landlords have established that the tenant caused damage that was above normal wear and tear. Therefore, I dismiss this portion of the landlords claim without leave to reapply.

#### Replacement of key

In this case, the tenant returned a mailbox key to the landlords. I find that if the mailbox was not the correct key it would have been reasonable for the landlords to contact the tenant. Further, the evidence of the tenant was that the mailbox lock was damaged.

I have reviewed the invoice submitted by the landlords; the invoice does not provide any information as to why the lock was changed. Further, there were three keys provided, which would not be the responsibility of the tenant. I find the landlords have failed to provide sufficient evidence to support their claim. Therefore, I dismiss this portion of the landlords claim without leave to reapply.

I find that the landlords have established a total monetary claim of **\$1,370.84** comprised of the above described amounts and the \$100.00 fee paid for this application.

I order that the landlords retain the security deposit and interest of **\$600.00** in partial satisfaction of the claim and I grant the landlords an order under section 67 for the balance due of **\$770.84**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlords are granted a monetary order and may keep the security deposit in partial satisfaction of the claim. The landlords are 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: January 5, 2018

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Residential Tenancy Branch