



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND   MNR   MNSD

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on July 12, 2017, and amended by an Amendment to an Application for Dispute Resolution (the "Amendment"), received at the Residential Tenancy Branch on July 21, 2017 (together, the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit, site, or property;
- a monetary order for unpaid rent or utilities; and
- an order allowing the Landlord to retain all or part of the security deposit or pet damage deposit.

The Landlord attended the hearing on her own behalf and provided affirmed testimony. The Tenants did not attend the hearing.

The Landlord testified the Application package and Amendment were served on the Tenants by registered mail. She confirmed these documents were sent to the forwarding address provided by the Tenants during the move-out condition inspection on June 28, 2017. In addition, the Landlord submitted further documentary evidence to the Residential Tenancy Branch, which was received on January 7 and 8, 2018. The Landlord testified the evidence was served on the Tenants by ExpressPost. As the Tenants did not attend the hearing to dispute the Application, and pursuant to section 71 of the *Act*, I find the above documents were sufficiently served on the Tenants for the purposes of the *Act*.

The Landlord was provided with 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

1. Is the Landlord entitled to a monetary order for damage to the rental unit?
2. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
3. Is the Landlord entitled to retain all or part of the security deposit or pet damage deposit?

### Background and Evidence

The Landlord submitted a copy of the tenancy agreement between the parties into evidence. It confirmed the tenancy began on November 26, 2011. The Landlord testified the tenancy ended when the Tenants moved out of the rental property on or about June 26, 2017. At the end of the tenancy, rent was due in the amount of \$1,650.00 per month. The Tenants paid a security deposit of \$750.00 and a pet damage deposit of \$750.00, which the Landlord holds.

The Landlord sought monetary relief for repairs required in the rental unit at the end of the tenancy. The losses for which the Landlord seeks compensation were summarized in a Monetary Order Worksheet, dated July 21, 2017. Quotes obtained by the Landlord indicated the total amount due to the Landlord was \$12,330.44. However, recognizing that work has not yet been completed and the useful life of the items for which claims were made is reduced, the Landlord sought only to retain the security and pet damage deposits, which total \$1,500.00.

The Landlord provided testimony with respect to the damage. First, she testified that carpeting in a front bedroom was very badly stained, and that carpeting on the stairs had been clawed at and damaged by the Tenants' cat. Second, the Landlord testified that several rooms needed to be painted because of holes left in the walls. Third, the Landlord testified the kitchen island was moved by the Tenants, who also performed the necessary electrical work. The Landlord would like to return the island and the electrical work to the original position. Fourth, the Landlord testified that patio screen doors were damaged, apparently by the Tenants' cat, and were left with large holes. Fifth, the

Landlord claimed the driveway was damaged due to large oil stains left by the Tenants. She advised the Tenants were aware of the stains. Although the Tenants had tried to remove the stains, they were unable to do so. Sixth, the Landlord claimed the garage doors were damaged by the Tenants.

In support of the Landlord's claims, she submitted the following documentation:

- Tenancy agreement, signed and dated October 30, 2011;
- Condition Inspection Report, dated June 28, 2017;
- Quote for replacement of patio screens, undated;
- Quote for electrical work, dated July 12, 2017;
- Quote for painting, dated July 12, 2017;
- Estimate for garage door replacement, dated July 11, 2017;
- Quote for carpet replacement, dated July 11, 2017; and
- 20 colour photographic images of the interior and exterior of the rental unit.

### Analysis

Based on the affirmed and undisputed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. An applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Landlord to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or

tenancy agreement on the part of the Tenants. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did what was reasonable to minimize the damage or losses that were incurred.

In this case, the Landlord provided affirmed testimony regarding the damage to the rental units. She also provided documentary evidence of the damage and submitted quotes for the work to be completed. However, recognizing she would not likely be entitled to the full amount sought, and acknowledging the useful life of the various items to be repaired or replaced, the Landlord sought only to retain the security and pet damage deposits held, or \$1,500.00. The Tenants did not attend the hearing to dispute the Landlord's evidence.

In light of the above, and pursuant to section 67 of the *Act*, I order that the Landlord is entitled to retain the security and pet damage deposits held in full satisfaction of the repair and replacement costs claimed.

#### Conclusion

I order that the Landlord is entitled to retain the security and pet damage deposits held in satisfaction of the repair and replacement costs claimed.

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 15, 2018

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Residential Tenancy Branch