



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNSD, FF

### Introduction

On July 9, 2017, the Landlord submitted an Application for Dispute Resolution for a monetary order for damage to the unit; to keep the security deposit; and to recover the cost of the filing fee.

The matter was scheduled as a teleconference hearing. The Landlord and Tenant attended the hearing. At the start of the hearing I introduced myself and the participants. The Landlord and Tenant provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The parties confirmed that they have exchanged the documentary evidence before 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 cleaning and damage to the unit?
- Is the Landlord authorized to retain the security deposit?
- Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The parties testified that the tenancy began on January 1, 2016 as a month to month tenancy. The Tenant was to pay the Landlord monthly rent in the amount of \$1,500.00. The Tenant paid the Landlord a security deposit of \$750.00. Both parties provided a copy of the tenancy agreement. The Tenant moved out of the rental unit on June 30, 2017.

The Landlord received the Tenants forwarding address in writing on June 29, 2017, and applied for dispute resolution on July 9, 2017.

The Landlord testified that when the Tenant moved out there was damage to the unit, missing items and cleaning that was required.

The Landlord is seeking compensation for the following items:

Floor Vent cover	\$17.89
Curtains	\$45.00
Wooden outlet cover	\$6.47
Floor Vent	\$5.96
Outdoor electrical outlet cover	\$12.95
Cleaning	\$300.00
Yard work	\$80.00
Composter	\$98.00
Soaker hose	\$17.99
Paint and Labour	\$148.48

The Landlord provided color photographs and a USB drive containing digital photographs of the condition of the rental unit at the end of the tenancy.

The Tenant provided 44 photocopied black and white photographs as evidence on the condition and state of repair of the rental unit at the end of the tenancy.

Both parties provided a copy of a Condition Inspection Report that was completed at the time of the move in and move out.

#### Floor Vent cover

The Landlord testified that when she picked up the floor vent she discovered that the plastic was broken. She stated that it was whole at the start of the tenancy. The Landlord indicated that she provided a photograph of the vent contained within a USB drive she provided to the Residential Tenancy Branch; however, the photograph described as image #1496 was not contained within the photographs or digital drive. The Landlord did not provide a receipt for the purchase of a new vent.

The Tenant testified that she did not damage a floor vent. She pointed out that the floor vent is not an item that is contained within the Condition Inspection Report, and she submitted that the Landlord has not provided any photographs showing the condition of the vent or unit at the start of the tenancy.

### Curtains

The Landlord submitted that the Tenant altered the curtains located in the downstairs bedroom. She submitted that the curtains do not fit the windows. She submitted that she purchased new curtains. The Landlord provided two photographs of the altered curtains. The Landlord did not provide a receipt for the purchase of new curtains.

In response, the Tenant testified that she did hem the curtains. She submitted that the curtains are still in the windows.

### Wooden plate

The Landlord submitted that the wooden electrical outlet cover in the kitchen needed to be replaced. The Landlord submitted that she assumes the Tenant broke it and did not replace it. The Landlord submitted that the Tenant told her there was a fire and the plate was burned. The Landlord provided a photograph of the outlet and a receipt for the purchase of a new cover.

In response, the Tenant submitted that she told the Landlord that the plate was burnt and had fallen off. She submitted that the Landlord did not replace it during the tenancy.

### Bathroom Floor Vent

The Landlord submitted that she discovered that the floor vent in the bathroom was cracked and broken. The Landlord did not provide a photograph of the vent or a receipt for the purchase of a new vent. The Landlord is seeking the replacement cost.

In response the Tenant submitted that she did not break the bathroom vent.

### Outdoor electrical cover

The Landlord submitted that an electrical outlet cover was missing from an outdoor receptacle. The Landlord provided a photograph of the outlet.

In response, the Tenant submitted that the outlet was damaged when she moved in. She submitted that that area was not examined at the time of the move out inspection. She submitted that there is no evidence from the Landlord showing its condition at the start of the tenancy.

### Cleaning

The Landlord submitted that the rental unit was left unclean and that she cleaned every room in the unit. The Landlord provided photographs of the rental unit taken at the end of the tenancy.

In response, the Tenant testified that she cleaned the upstairs and downstairs of the unit at the end of the tenancy. The Tenant agreed that the vents and one cupboard needed cleaning. The Tenant estimated that the rental unit needed three hours of cleaning.

### Yard work

The Landlord submitted that the Tenant was expected to keep up with the yard work. She submitted that the Tenant stopped maintaining the yard after they gave notice to end the tenancy. The Landlord submitted that she needed to weed the yard and she needed to dispose of the yard waste. The Landlord provided photographs showing the condition of the yard at the end of the tenancy.

The Tenant submitted that she never agreed to maintain the yard. She submitted that she took grass clippings to the land fill. The Tenant submitted that there are no photographs of the yard at the time of the move in.

### Composter

The Landlord submitted that a composter that was located in the back yard is missing. She submitted that it was in perfect condition and it contained a small amount of compost. She submitted that it was approximately 10-15 years old. The Landlord is seeking the replacement cost of \$98.00.

In response, the Tenant submitted that the composter was broken when she moved into the unit. She submitted that the Landlord stated she was not going to replace it. The Tenant submitted that she tried to use the composter but it did not work. The Tenant

took the composter to the land fill and disposed of it. The Tenant submitted that the composter only has a useful life of five years.

### Soaker Hose

The Landlord submitted that a soaker hose left in a flower bed on the rental property is missing. She submitted that it was a 50 foot hose that she purchased in the spring. The Landlord is seeking \$17.99 for the replacement cost.

In response, the Tenant submitted that the soaker hose was not attached to any water source. She testified that she had to mow around it, so she eventually removed it and disposed of it.

### Paint and Labour \$148.48

The Landlord testified that she gave the Tenants permission to paint the master bedroom. She submitted that the Tenant failed to paint the inside of the master bedroom closet. The Landlord is seeking compensation for the cost to prepare and paint the master bedroom closet.

In response, the Tenant submitted that she hired a professional to paint the bedroom. She pointed out that the Landlord has not provided a receipt for the painting. The Tenant submitted that the dimensions of the closet are approximately 10 feet tall, 6 feet wide and two feet deep. The Tenant submitted that the professional painter stated that closets are not always painted.

### Security Deposit

The Landlord has applied to retain the security deposit of \$750.00 in full or partial satisfaction of her claims.

### Analysis

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.*

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.*

### Condition Inspection Report

I find that the parties participated in a move in and move out inspection of the rental unit. The report indicates that at the beginning of the tenancy the tenant agreed that the report fairly represents the condition of the rental unit. I find that the Condition Inspection Report is reliable evidence as to the condition of the rental unit at the start of the tenancy.

At the end of the tenancy the Tenant did not agree that the report fairly represents the condition of the rental unit. The Tenant noted that the cleanliness of the unit at the end of the tenancy was within reasonable standards. I find that the Condition Inspection Report is reliable evidence of the state of repair of the rental unit at the end of the tenancy subject to a preponderance of evidence from the Landlord or Tenant to the contrary.

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

### Floor Vent covers

The Landlord's claims for the cost to replace two floor vent covers are dismissed. There is insufficient evidence from the Landlord to establish that the Tenant is responsible for damaging the floor vent covers. There is insufficient evidence showing the condition of the covers at the start of the tenancy. The Condition Inspection Report does not identify the covers as items that were inspected.

### Curtains

The Tenant acknowledged that the curtains were hemmed. The photographs indicate that the curtains provide bare coverage of the windows. I find that the Tenant is responsible for the Landlord's cost to replace the curtains. I grant the Landlord \$45.00.

### Wooden Electrical Outlet Cover

The Landlord's claim for the replacement cost of the electrical cover is dismissed. The Landlord testified that the cover was missing but provided a photograph of it on the outlet. The cover appears burned at the bottom and the Tenant submitted that they notified the Landlord to replace it, but the Landlord failed to do so. It's the Landlord's obligation to maintain the rental unit. There is insufficient evidence from the Landlord that the damage was due to the Tenant's neglect.

### Outdoor Electrical Cover

The Landlord's claim for the cost to replace an outdoor electrical outlet cover is granted. The Condition Inspection Report identifies that exterior electrical outlets were in good condition at the start of the tenancy. The Landlord's photograph of the outlet at the end of the tenancy shows a missing cover. I grant the Landlord \$12.95.

### Cleaning

The Landlord's claim for cleaning the rental unit is granted. The Tenant acknowledged that she left some areas dirty and the Condition Inspection Report indicates that some areas of the rental unit were left dirty. The Tenant's photographs of the rental unit are black and white, and the quality of some of the photos are dark or of poor quality. The Tenant's photographs do not show areas such as the kitchen appliances that were reported as dirty in the Condition Inspection Report. The Landlord has provided the stronger evidence. I grant the Landlord \$300.00.

### Yard Work

I grant the Landlord \$80.00 for the cost to clean the yard. Despite the Tenant's submission that the Landlord has not provided photographs showing the condition of the yard at the start of the tenancy, the Tenant is expected to maintain the yard and leave it in a reasonable condition. The Condition Inspection Report indicates the grounds were clean at the start of the tenancy. The Landlord's photographs showing weeds and grass clippings establish that the grounds were left in a state that required maintenance.

### Composter

The Landlord's claim for the replacement cost of the composter is dismissed. I find that the composter was old and was beyond its useful life.

### Soaker hose

I grant the Landlord \$17.99 for the replacement cost of the hose. The Tenant acknowledged it was on the property and that she disposed of it. I accept the Landlord's testimony that the hose was relatively new.

### Painting and Labour

I grant the Landlord 50% of the amount claimed. The Tenant is not responsible for the cost of preparing the closet to be painted. The Tenant never painted the closet and therefore I find that any preparation costs are not attributable to the Tenant. In addition I find that the square footage of the closet is very small and there would be minimal effort involved with painting it. I grant the Landlord \$74.24 for the cost of painting the closet.

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

The Landlord has established a monetary claim in the amount of \$630.18. I authorize the Landlord to retain the amount of \$630.18 from the security deposit. The Landlord is ordered to return the balance of the security deposit in the amount of \$119.82 to the Tenant. The Tenant is granted a monetary order in the amount of \$119.82. The



monetary order must be served on the Landlord and may be enforced in the Provincial Court.

Conclusion

I find that the Tenant owes the Landlord the amount of \$630.18 for the cost of cleaning and repairing the rental unit.

I authorize the Landlord to retain the amount of \$630.18 from the security deposit.

I order the Landlord to return the balance of the security deposit in the amount of \$119.82 to the Tenant.

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: February 02, 2018

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Residential Tenancy Branch