



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HUDSON MEWS HOLDINGS INC.  
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      FF, MND, MNSD, MNDC

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- an order authorizing the landlord the recovery of the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other.

### Issue to be Decided

Is the landlord entitled to a monetary award for damage arising out of this tenancy?  
Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?  
Is the landlord entitled to the recovery of the filing fee?

### Background, Evidence

The landlord's agent's testimony is as follows. The tenancy began on July 1, 2014 and ended on August 31, 2017. The tenant was obligated to pay \$1348.00 per month in rent in advance and at the outset of the tenancy the tenant paid a \$650.00 security deposit which the landlord still holds. The tenant also paid a \$75.00 deposit for an additional fob but that deposit has been returned. Written condition inspection reports were conducted at move in and move out with both parties present.

ED testified that the tenant left the unit dirty and damaged at move out. ED testified that the tenants did not clean the carpets, blinds and the suite in general; to a satisfactory and reasonable standard. LT testified that the tenant had made an unusually high amount of damage by hanging pictures and leaving in excess; over 90 holes. ED testified that the tenant attempted to repair the damage by patching and filling the holes, but did such a poor job, most of the holes had to be redone by a professional. ED and LT testified that the construction that was being done next to the property was not affiliated in anyway with their company.

The landlord is applying for the following:

1.	Carpet Cleaning	\$115.00
2.	Repair Holes in the walls	509.25
3.	Suite Cleaning	94.50
4.	Blind Cleaning	194.46
5.	Filing Fee	100.00
6.	Minus Deposit	-650.00
7.		
8.		
9.		
10.		
	Total	<b>\$363.21</b>

The tenant gave the following testimony. The tenant testified that the majority of the issues raised by the landlord are as a result of the ongoing construction next to the building. The tenant testified that she thought the construction was being conducted by a parent company or shareholder of the subject landlord. The tenant testified that she feels that the landlords standard of cleanliness is unreasonable and felt “deeply offended” when she was told that the unit was left dirty. The tenant testified that the holes in the wall are just regular wear and tear and that the items that the landlord alleges were dirty were in fact very clean. The tenant testified that she should receive her deposit back.

### Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the landlord’s claim and my findings around each are set out below.

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 provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. I address the landlords claim and my findings as follows.

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#### Carpet Cleaning - 115.00

The tenant testified that she rented a carpet cleaner and did the best she could. ED does not dispute that the tenant rented a cleaner, however the carpets were not returned in a reasonably clean manner. Based on the condition inspection report, the photos and the receipt provided by the landlord, I am satisfied that they have provided sufficient evidence that the carpets were not left reasonably clean and that the landlord is entitled to recover the cost as claimed of \$115.00.

#### Repair Holes – \$509.25

Residential Tenancy Policy Guideline 1 addresses this issue as follows:

*The tenant must pay for repairing walls where there are an excessive number of nail holes, or large nails, or screws or tape have been used and left wall damage.*

Based on the condition inspection report, the testimony of ED and LT, the photos and the receipt provided by the landlord, I am satisfied that the amount of nail holes was excessive causing damage to the walls beyond normal wear and tear. Based on the above, the landlord has provided sufficient evidence to support this claim, accordingly; I find that the landlord is entitled to \$509.25.

#### Suite Cleaning – \$ 94.50

The tenant testified that she cleaned the unit very well and felt insulted that the landlords told her that the unit was dirty. The landlords provided an extensive list of items that were not cleaned including the bathroom, major appliances, floors, windows and cupboards. ED does not dispute that the tenant did some cleaning but the suite

was not returned in a reasonably clean manner. Based on the condition inspection report, the photos and the receipt provided by the landlord, I am satisfied that they have provided sufficient evidence that the suite was not left reasonably clean and that the landlord is entitled to recover the cost as claimed of \$94.50.

#### Blind Cleaning – \$194.46

The tenant testified that she cleaned the blinds and that any dust that accumulated was from the construction next door. ED testified that the amount of dust was “caked on” the blinds that required extensive cleaning and was not from a little bit of buildup, but from a long period of neglect. Residential Tenancy Policy Guideline 1 addresses this issue as follows:

*The tenant is expected to leave the internal window coverings clean when he or she vacates. The tenant should check with the landlord before cleaning in case there are any special cleaning instructions. The tenant is not responsible for water stains due to inadequate windows.*

Based on the condition inspection report, the testimony of the ED, the photos and the receipt provided by the landlord, I am satisfied that blinds were not returned to them in a reasonably clean condition. Based on the above, the landlord has provided sufficient evidence to support this claim, accordingly; I find that the landlord is entitled to \$194.46.

As the landlord has been successful in this application, they are entitled to the recovery of the \$100.00 filing fee.

The landlord has been successful as follows:

1.	Carpet Cleaning	\$115.00
2.	Repair Holes in the walls	509.25
3.	Suite Cleaning	94.50
4.	Blind Cleaning	194.46
5.	Filing Fee	100.00
6.	Minus Deposit	-650.00
7.		
8.		
9.		
	<b>Total</b>	<b>\$363.21</b>

Conclusion

I order that the landlord retain the \$650.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$363.21. This order may be filed in the Small Claims 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: April 05, 2018

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Residential Tenancy Branch