



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, FFL

### Introduction

This hearing dealt with the landlord's application seeking a Monetary Order pursuant to the *Residential Tenancy Act* (the *Act*) for damage to the premises and reimbursement of the filing fee.

The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenant did not attend this hearing. I confirmed the correct call-in numbers and participant codes had been provided in the Notice of Hearing. Following the hearing, I also confirmed from the online teleconference system the landlord and I were the only ones who had called in to the teleconference.

The landlord testified the tenant was served with the Notice of Hearing documents and this application by registered mail on December 13, 2017 pursuant to Section 59(3) of the *Act*. The landlord provided a copy of the Canada Post Customer Receipts containing the tracking numbers. In accordance with Section 89 and 90 of the *Act*, I find that the tenant is deemed served on December 18, 2017.

### Issues to be Decided

The issues to be decided are whether the landlord is entitled to a Monetary Order from the tenant pursuant to Sections 67 and 72 of the *Act* for the following:

- cleaning and damages; and
- recovery of the filing fee

### Background and Evidence

The tenant was one of three persons renting the landlord's premises on a month-to-month tenancy beginning October 1, 2016 for rent of \$1,000.00 including utilities payable on the first day of the month. A security deposit of \$500.00 and a pet deposit of \$500.00 (together referred to as "the deposits") was paid to the landlord. The tenant and the other two persons vacated the premises on December 1, 2017.

The tenant provided verbal consent the landlord could apply \$500.00 of the deposits towards the cost of replacing carpeting in one room. The tenant did not agree the balance of \$500.00 could be applied to any cleaning or damage.

The landlord submitted a Condition Inspection Report on move-out completed and signed by the landlord only. The landlord testified he asked the tenant more than twice to attend an inspection and the tenant refused before vacating the premises.

The landlord testified as to the condition of the premises at the beginning of the tenancy:

- the unit had been professionally cleaned; and
- the unit was partially carpeted with 3-year-old carpet in good condition.

The landlord submitted photographic evidence of the condition of the unit when the tenant vacated the premises:

- the unit was dirty with considerable cat hair throughout;
- the carpets were stained throughout;
- the carpet in one bedroom (approximately 3 m by 6 m) was so stained the professional cleaning company hired by the landlord could not remove the marks, necessitating the planned replacement of the carpet;
- the stove was sufficiently dirty the landlord determined it could not be cleaned and would have to be replaced;
- there was a mix of the odour of marijuana smoke and cat urine permeating the premises including the carpets; and
- there was garbage strewn in and around the premises.

The landlord stated he incurred expenses in cleaning the premises. He also testified he hired a professional carpet cleaning company and the stains in the carpet in the one bedroom could not be removed necessitating replacement. The landlord requests reimbursement of \$1,000.00 for the following expenses:

	<b><i>Item</i></b>	<b><i>Details</i></b>	<b><i>Amount</i></b>
1.	Carpet	Estimate replacement cost	\$1,000.00
2.	Cleaning	Paid to cleaner (\$20.00 an hour x 16)	\$320.00
3.	Garbage removal	Landlord's time (\$20.00 an hour x 5)	\$100.00
		<b>Total expenses</b>	<b>\$1,420.00</b>
		<b>Total expenses claimed by landlord</b>	<b>\$1,000.00</b>

### Analysis

In reviewing the documents and hearing the landlord's uncontradicted evidence, I find the landlord has complied with Section 35(2) of the *Act*.

Section 24 of the *Act* states that the right of a tenant to the return of a security deposit or a pet damage deposit, or both, is extinguished if the tenant has not participated in two opportunities for inspection provided by the landlord. I accept the landlord's uncontradicted testimony the tenant failed to attend for the Condition Inspection Report on move-out as required. I therefore find the tenant's right to the return of the security deposit is extinguished.

To be successful in a claim for loss or damages, the applicant must provide sufficient evidence to establish the following:

1. A loss or damage exists;
2. The loss or damage results from a violation of the *Act*, regulation, or tenancy agreement;
3. The value of the loss or damage is ascertained;
4. Steps have been taken to mitigate the loss or damage.

In the absence of any contrary evidence, I accept the landlord's testimony the tenants caused the damage he described. I find he has taken reasonable steps to mitigate the damage and has incurred the expenses claimed as well as additional unclaimed expenses, such as the replacement of the stove. The landlord testified he was not claiming compensation for his own work in repairing the damage except for the five hours spent in collecting and disposing of garbage.

*Residential Tenancy Policy Guideline #37* contains a table setting out the useful life of products used in homes. The Guideline states the useful life of carpet is ten years. Accordingly, at the end of this tenancy, the carpet had a remaining 5-year life expectancy.

Applying this Guideline to the current situation, I find the landlord is entitled to the following:

Carpet	50% of \$1,000.00 (replacement cost)	\$500.00
	<b>Total Allowed Carpet Expenses</b>	<b>\$500.00</b>

I accept the landlord's uncontradicted claim for reimbursement for cleaning summarized as follows:

Carpet cleaning	\$126.00
Cleaning expenses	\$320.00
Garbage collection	\$100.00
<b>Total Cleaning Expenses</b>	<b>\$546.00</b>

In summary, I find the landlord has incurred the expenses for which a claim for reimbursement has been made. I find he has made reasonable efforts to mitigate his expenses.

As the landlord is successful in his application, I allow his claim for reimbursement of the filing fee.

Pursuant to Sections 24 and 38(4), I find the tenant has extinguished his right to the return of the security deposit and the landlord may retain the deposits to be applied to the allowed claim.

I therefore allow the landlord's claim as follows:

Claimed Expenses	\$1,000.00
Filing fee	\$100.00
Less Deposits	-\$1,000.00
<b>Total Monetary Order</b>	<b>\$100.00</b>

Conclusion

The landlord is entitled to a Monetary Order in the amount of **\$100.00**. 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) to 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: June 04, 2018

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Residential Tenancy Branch