



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding DEVON PROPERTIES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDCL-S, MNRL-S, FFL

### Introduction

On May 14, 2018, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the *Act*”) requesting a monetary order for damages to the unit, unpaid rent, permission to retain the security deposit and pet damage deposit, and the return of the filing fee. The matter was set for a conference call.

The Landlord’s Agent (the Agent) attended the conference call hearing and was affirmed to be truthful in her testimony. As the Tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Agent testified the Application for Dispute Resolution and Notice of Hearing were served on the Tenant by Canada Post Registered mail. A Canada post tracking number for the mail sent on May 25, 2018, was provided as evidence of service. I find that the Tenant had been duly served in accordance with sections 89 and 90 of the *Act*.

The Agent was provided with the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

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 a monetary order for unpaid rent?
- Is the Landlord entitled to monetary compensation for damages under the *Act*?
- Is the Landlord entitled to retain the security deposit and pet damage deposit in partial satisfaction of the claim?
- Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The Agent testified that the tenancy began on April 1, 2018, as a one-year fixed term tenancy. Rent in the amount of \$1,150.00 was to be paid by the first day of each month and at the outset of the tenancy, the Tenant paid a \$575.00 security deposit and a \$575.00 pet damage deposit. The Agent testified that the Tenant was permitted to move into the rental unit 11 days early on March 21, 2018, on the requirement that he pay a per diem rent of \$421.67. The Agent provided a copy of the tenancy agreement and the financial ledger of the tenancy into documentary evidence.

The Agent testified that the Tenant was served with a One Month Notice to end the tenancy for cause on March 26, 2018, and that the Tenant had moved out in accordance with that notice on April 30, 2018. The Agent testified that the move-out inspection was conducted on April 30, 2018, and that the Tenant refused to attend the inspection. The Agent entered a copy of the move-out inspection report into documentary evidence.

Additionally, the Agent testified that the Landlord was able to find a new person to take over the rental unit as of May 1, 2018. However, due to the dirty and damaged state that the Tenant had returned the rental unit to them, they are seeking the cleaning costs. The Agent provided the timesheet detailing the hours worked by their staff to clean the rental unit, testifying that they had used two people to clean to ensure that the rental unit would be ready by the next day for the new person.

The Agent is seeking a monetary order for the unpaid rent; \$145.20 for March 2018, and \$475.00 for April 2018, and to recover \$250.00 in costs associated with cleaning the rental unit.

### Analysis

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

I find that the parties entered into a one-year fixed term tenancy, beginning on April 1, 2018, in accordance with the *Act*. I also accept that the Landlord had allowed the Tenant to move into the rental unit early on March 21, 2018, on a per diem bases, for \$421.67.

I find the Landlord applied for this application on May 14, 2018, within the legislated timeline set out in section 38 of the *Act*, and was within his right to hold on to the security deposit pending this decision.

I find that the Tenant did not pay his full rent for March or April 2018, pursuant to section 26 of the *Act*.

Therefore, I find that the Landlord has established an entitlement to a monetary award for the unpaid rent for March 2018, of \$145.20 and for April 2018, of \$475.00 in accordance with the tenancy agreement.

I accept the undisputed testimony of the Agent and the move-out inspection report represents the official condition of the rental unit at the beginning and end of this tenancy.

Section 37(2) of the *Act* states:

**Leaving the rental unit at the end of a tenancy**

**37** (1) Unless a landlord and tenant otherwise agree, the tenant must vacate the rental unit by 1 p.m. on the day the tenancy ends.

(2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and

(b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

I have reviewed the move-out inspection report, and I find that the Tenant breached section 37 of the *Act* by not returning the rental unit in a reasonably clean state, and is therefore responsible for the Landlord's costs associated to cleaning.

As the Landlord has been successful in this application, I find that the Landlord is entitled to recover their filing fee paid for this application. I allow the Landlord an award of \$945.20 and order the Landlord to return the balance of the security and pet damage deposits they hold, \$204.80, to the Tenant.

<u>Rent</u>	<u>Due</u>	<u>Paid</u>	<u>Outstanding</u>
March 2018	\$445.20	-\$300.00	\$145.20
April 2018	\$1,150.00	-\$700.00	\$450.00
Total Outstanding Rent			\$595.20
Cleaning Costs			\$250.00
Filing Fee			\$100.00
			\$945.20
Security Deposit Held			-\$575.00
Pet Damage Deposit Held			-\$575.00
<b>Due</b>			<b>-\$204.80</b>

### Conclusion

I find for the Landlord under sections 67 and 72 of the Act, and authorize the Landlord to retain \$945.20 from the Tenant's security and pet damage deposits. I order the Landlord to return of the remainder of the Tenant's deposits in the amount of **\$204.80** to the Tenant within 15 days of receiving this decision.

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: July 11, 2018

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Residential Tenancy Branch