



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S

### Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “Act”) for a claim for damages against the security deposit.

One of the Landlords was present for the teleconference hearing, while no one called in for the Tenant during the approximately 34-minute hearing. The Landlord was affirmed to be truthful in his testimony.

The Landlord provided testimony that the Notice of Dispute Resolution Proceeding package, along with copies of their evidence was sent to the Tenant by registered mail on April 14, 2018. The first package the Landlord sent was returned to him as he had read and written the Tenant’s forwarding address incorrectly. However, he testified that he re-sent the package on April 14, 2018 to the correct forwarding address, by registered mail.

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

Are the Landlords entitled to monetary compensation for damages?

Should the Landlords be allowed to retain the security deposit towards any monetary compensation owed?

### Background and Evidence

The Landlord provided undisputed testimony regarding the tenancy. The tenancy began on December 15, 2017 and ended on March 31, 2018. Monthly rent was \$3,500.00 and a security deposit of \$1,750.00 was paid at the outset of the tenancy. The Tenant told the Landlords that he did not have pets, so a pet damage deposit was not paid.

However, the Landlord testified that there were two dogs present in the rental unit during the tenancy and they never received a pet damage deposit from the Tenant.

The Landlord stated that they are still in possession of the full security deposit amount and that the Tenant did not agree in writing to the Landlord withholding any amount.

A Condition Inspection Report at move-in was completed on December 16, 2017 and was signed by the Tenant and Landlord. The Landlord testified that the move-out inspection was completed on March 31, 2018 with the Landlord and the Tenant's son. The Landlord stated that the Tenant's son signed the move-out inspection, but did not agree in writing to any deductions from the security deposit at that time. The Condition Inspection Reports were submitted into evidence.

On April 12, 2018 the Landlord sent a request to the Tenant regarding the damages in the rental unit but stated that he did not hear back. The Landlord has claimed damages in the amount of \$1,789.70. The letter to the Tenant was submitted into evidence and outlines the claims of the Landlord, including photos and amounts for the damage.

The Landlord testified that he received the Tenant's forwarding address on February 28, 2018.

The Landlord has claimed \$650.00 for the repair of the wood floor. The Landlord testified that the Tenant's two dogs used the floor as a bathroom which caused damage to the floor. He also noted that the flooring under the dogs' water dish was wet, causing further damage to that area of the floor.

The Landlord claimed \$650.00 for repair of the floor as an estimate, but stated that the actual cost was \$308.96 for materials and \$700.00 for labour costs. The work was completed in early April 2018. An estimate or invoice for the work was not submitted into evidence prior to the hearing.

Photos of the floor were submitted into evidence in which areas of the wood flooring appear to have buckled due to moisture damage. The move-out Condition Inspection Report notes water damage on the floors in the entry, kitchen and dining room.

The Landlord claimed \$187.75 for stains from the pets on the bedroom carpets. The Landlord stated that the stains seem to be from dog urine and/or feces. An invoice dated April 5, 2018 from a carpet cleaning company was submitted into evidence for the amount claimed by the Landlord. Photos of the stains on the carpets were submitted

into evidence. The Condition Inspection Report at move-out notes carpet stains in both bedrooms.

The Landlord is claiming \$456.82 for the cost of repairing the bathroom floor. The Landlord provided testimony that dog urine was left sitting on the bathroom floor, causing staining and damage to the tiling. The Landlord submitted a photo taken prior to the Tenant moving out, showing what appears to be dog urine and feces on the floor of the bathroom.

The Landlord testified that the wooden baseboards in the bathroom had swelled due to the moisture damage and had to be replaced and repainted. The grout on the bathroom floor tiles had to be ground down and redone, and the marble tiling required stripping and resealing after the grouting was completed.

The Landlord submitted an invoice dated April 11, 2018 for the amount claimed. The invoice, from a construction company outlines the work completed and states 10.5 hours of work. The Condition Inspection Report notes the damage to the bathroom floor.

The Landlord has claimed \$118.13 for cleaning the rental unit, including the kitchen, window sills and stove. The Condition Inspection Report notes unclean areas throughout the home. An invoice from a cleaning company, dated April 5, 2018, states 2.5 hours of cleaning at \$45.00 per hour.

The Landlord stated that there were cigarette ash stains on the window sills, as well as dog urine stains on the balcony that they cleaned up themselves. The Landlord is estimating a total of six hours spent cleaning and has claimed \$200.00 for their time. Photos of the windows and balcony were submitted into evidence.

The Landlord has claimed \$152.00 for the replacement of keys that the Tenant did return. However, he stated that the actual cost ended up being \$20.10. No invoice for the key cutting was submitted into evidence. The Condition Inspection Report notes that the two storage keys were not returned.

Lastly, the Landlord has claimed \$25.00 for replacement of the bicycle tags for the rental building that were not returned by the Tenant. However, during the hearing, the Landlord stated that he has not paid to have these replaced yet. The Landlord estimated \$25.00 as the cost for replacement of the bicycle tags.

### Analysis

As the Landlord is claiming monetary compensation for loss that occurred due to damages, I refer to the *Residential Tenancy Policy Guideline 16: Compensation for Damage or Loss* which outlines a four-part test as follows:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

This test will be applied to each of the claims of the Landlord.

I also refer to Section 38(1) of the *Act* which states the following:

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

As the Tenant's forwarding address was provided on February 28, 2018 and the tenancy ended on March 31, 2018, I find that the Landlords had 15 days from March 31, 2018 to repay the security deposit or file a claim against it. As the Landlords applied for Dispute Resolution on April 13, 2018, I find that they applied within the time allowable under the *Act*. As such, the Landlords may retain the compensation owed to them from the security deposit.

**Wood floor repair:** The Landlord estimated \$650.00 for the repair of the wood floor, but stated that the actual cost was \$1,008.96 including materials and labour. However, as no invoice for the work was submitted, I find that the Landlord has not proven the value

of the loss and therefore did not meet the four-part test outlined above. Therefore, I decline to award any compensation for the repair of the wood floor.

**Carpet cleaning:** I accept the photos of the carpet stains, as well as the Condition Inspection Report at move-out that states stains on the carpets in the bedrooms. As there were no carpet stains noted on the move-in inspection, I find that the Landlord proved that damage to the carpets occurred during the tenancy.

I accept the amount stated on the invoice for carpet cleaning and find that the Landlord experienced a loss due to paying to have the stains cleaned. I note that in accordance with Section 37(2), a tenant must leave a rental unit reasonably clean, other than wear and tear. I find that the photos show stains that are beyond reasonable wear and tear and therefore I award compensation to the Landlord in the amount of \$187.75.

**Bathroom floor repair:** As with the stains on the carpets, I find that the Condition Inspection Report demonstrates that the damage occurred during the tenancy. I also find that the damage to the floors was significant and beyond wear and tear. Therefore, I find that the Tenant was in breach of Sections 32 and 37 of the *Act*.

As the Landlord repaired the floor, instead of replacing the floor, I find that reasonable steps were taken to minimize the loss that occurred. As such, I find that the Landlord met the four-part test and is entitled to compensation for the repair costs in the amount of \$456.82.

**Cleaning:** I accept the invoice stating that the Landlords paid professional cleaners to clean the rental unit for an amount of \$118.13. I also find that the signed Condition Inspection Report at move-in and move-out clarifies that the rental unit was not left in a clean state at the end of the tenancy. Therefore, I award the Landlord compensation for cleaning in the amount of \$118.13.

**Window sill and balcony cleaning:** I find that the photos submitted into evidence show that cleaning was needed on the window sill as well as the balcony. I accept that the Landlords completed this work themselves and that it took approximately six hours of labour to complete. However, I find that \$25.00 per hour is a reasonable rate for cleaning and therefore decline to award the full \$200.00 claimed. Instead, I award \$150.00 for six hours of cleaning at \$25.00 per hour.

**Key replacement:** Similarly to the wood floor repair, I find that by not submitting an invoice or receipt for the cost of cutting new keys, the Landlords did not prove the value

of the loss that incurred from having new keys cut. As such, I decline to award compensation for the keys.

**Bicycle tag replacement:** As the Landlord testified that they have not paid to have the bicycle tags replaced, I find that the Landlords have not proven the value of their loss, or that they experienced a loss. As such, I dismiss the claim for \$25.00.

Therefore, I find that the Landlords are entitled to retain an amount of \$912.70 from the security deposit and must return the remainder to the Tenant. A Monetary Order is granted to the Tenant based on the following calculations:

Return of security deposit	\$1,750.00
<i>Less carpet cleaning</i>	<i>(\$187.75)</i>
<i>Less bathroom floor repair</i>	<i>(\$456.82)</i>
<i>Less professional cleaning</i>	<i>(\$118.13)</i>
<i>Less 6 hours cleaning by Landlords</i>	<i>(\$150.00)</i>
<b>Total owing to Tenant</b>	<b>\$837.30</b>

### Conclusion

Pursuant to Sections 38, 67 and 72 of the *Act*, I grant the Tenant a **Monetary Order** in the amount of **\$837.30** for the return of the security deposit, after deductions for cleaning and repairs as outlined above. The Tenant is provided with this Order in the above terms and the Landlords must be served with **this Order** as soon as possible. Should the Landlords fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: October 25, 2018

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Residential Tenancy Branch