



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDL-S, FFL

### Introduction

This hearing was scheduled in response to the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for damage to the rental unit pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant and the landlord's agent (the "landlord") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed she was an agent of the landlord's company named in this application, and had authority to speak on its behalf.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. As neither party raised any issues regarding service of the application or the evidence, I find that both parties were duly served with these documents in accordance with sections 88 and 89 of the *Act*.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage to the rental unit?

Is the landlord authorized to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested?

Is the landlord authorized to recover the filing fee for this application from the tenant?

### Background and Evidence

As per the submitted tenancy agreement and testimony of the parties, the tenancy began on August 1, 2017 on a fixed term until July 31, 2018. Rent in the amount of \$1,500.00 was payable on the first of each month. The tenant remitted a security and pet deposit in the total amount of \$1,500.00 at the start of the tenancy, which the landlord still retains in trust. The tenant vacated the rental unit on July 31, 2018.

The landlord seeks compensation in the amount of \$327.75, including the following;

Item	Amount
Cleaning	\$217.50
Lawn	\$110.25
Total Claim	\$327.75

The landlord also seeks to recover the \$100.00 filing fee for this application from the tenant.

The tenant testified that it was apparent the cleaning contractor had been hired prior to her vacancy because on the day of final inspection; the contractor was parked in the driveway awaiting the completion of the inspection report. The tenant testified that she was not given the opportunity to provide any further cleaning upon completion of the inspection. The tenant testified that the cleaning contractor performed four hours of cleaning; not seven as alleged by the landlord. The tenant testified she knows this because she drove by the unit several times and made note of when the cleaning contractor left. In an effort to support her position, the tenant provided photographs. In regards to the lawn, the tenant accepts the landlord's claim and is prepared to pay this portion.

The landlord testified that it is their practice to have a cleaning contractor on standby by in the event cleaning is required following a vacancy. In this case, the landlord determined further cleaning was required and employed the services of the waiting contractor. The landlord testified that the contractor cleaned for four hours but came back later in the evening for an additional three hours. In support of her position, the landlord has provided copies of the condition inspection reports, photographs, and invoices.

### Analysis

Under section 67 of the *Act*, when a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. To prove a loss, the applicant must satisfy the test prescribed by Section 7 of the *Act*. The applicant must prove a loss actually exists and prove the loss happened solely because of the actions of the respondent in violation to the *Act*. The applicant must also verify the loss with receipts and the applicant must show how they mitigated or what reasonable efforts they made to minimize the claimed loss.

Section 37 of the *Act*, establishes that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Regulation* or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

Based on the condition inspection reports, the photographs and the invoices before me, I find that the tenant left the rental unit contrary to section 37(2) of the *Act*. Although the tenant's photographs show a reasonable clean unit, as evidenced by the landlord's close up photographs, areas of the unit were not left reasonably clean. Accordingly, I find that the landlord is entitled to compensation in the invoiced amount of \$217.50 for cleaning.

As the tenant did not dispute the landlord's claim for the lawn in the amount of \$110.25, I award this amount to the landlord.

Although the tenant contended that she should not be held liable for the filing fee, I find that because the landlord was successful in this application, that the landlord is entitled to recover the \$100.00 filing fee for a total award of \$427.75.

In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain \$427.75 of the \$1,500.00 security and pet deposit in full satisfaction of the monetary award. The tenant is entitled to the remaining \$1,072.25 security deposit balance.

Conclusion

The landlord is entitled to \$427.75. I order the landlord to retain \$427.75 from the security deposit in full compensation of this amount. The tenant is entitled to the return of the balance of the security deposits. I therefore grant the tenant a monetary order for the balance of the deposits, in the amount of \$1,072.25.

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: December 17, 2018

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Residential Tenancy Branch