



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ORCA REALTY INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FFL MNDL-S

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act*. (the *Act*), I was designated to hear this matter. This hearing dealt with the landlord's application for:

- an application to keep all or part of the damage deposit pursuant to section 38 of the *Act*, and
- recovery of the filing fee from the tenant, pursuant to section 72 of the *Act*.

Both the landlord and tenant P.A. attended the hearing by way of conference call. The landlord was represented by agent, R.T. (the "landlord") while the tenant was assisted with translation by I.S. All parties present were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Both parties confirmed receipt of each other's evidentiary packages and the tenant confirmed receipt of the landlord's application for dispute. All parties are found to have been duly served in accordance with sections 88 & 89 of the *Act*.

### Issue(s) to be Decided

Is the landlord entitled to a monetary award? Can the landlord retain the security deposit?

Can the landlord recover the filing fee?

### Background and Evidence

The parties explained this tenancy began on October 1, 2015 and ended in September 2018. Rent was \$1,795.00 per month and a security deposit of \$897.50 paid at the outset of the tenancy continues to be held by the landlord.

The landlord has applied to retain the tenants' security deposit in full satisfaction for damage allegedly caused during the tenancy. Specifically, the landlord noted that damage to the carpet and fridge was present in the unit following the tenants' departure. In addition, the landlord said the tenants had failed to clean the carpet as were required by the terms of their tenancy agreement. The landlord submitted several photos in support of their application, along with invoices related to repairs and cleaning. The landlord explained that while the costs incurred for cleaning and repairing the unit were greater than the security deposit collected from the tenants, the landlord was only looking to recover an amount equivalent to the security deposit.

The tenants disputed the landlord's claim and argued that any damage present in the rental unit was normal wear and tear. The tenants alleged that no copy of the condition inspection of the unit was received at the outset of the tenancy and the tenants said the carpet was stained at the beginning of the tenancy. Furthermore, the tenants argued that the unit was left clean. In their evidentiary package, the tenants supplied an invoice from a cleaning company whom they say attended to the property following the conclusion of the tenancy. The tenants said that cleaners were tasked with general cleaning of the entire rental unit.

The landlord supplied a copy of the signed condition inspection report. This report describes the carpets as "Prof cleaned" and notes no issues with the fridge. The landlord recalled that the carpets were new two years prior to the start of the tenancy (2013) while he could not provide a date for the fridge. The inspection report notes signatures from the tenants on move-in and move-out.

### Analysis

*Residential Tenancy Policy Guideline 1 & 40* examine the issue of useful life of items commonly found in rental properties while also providing detail on the rights and responsibilities of parties as they relate to rental units.

*Guideline #1* says, "The tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. Generally, at the end of the tenancy the tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year." While the tenants supplied an invoice demonstrating their

commitment to cleaning the rental unit following the conclusion of the tenancy, I find the invoice fails to detail cleaning of the carpets as required per the description above. The invoice states, “vacuum and cleans [sic] all floors, walls, blinds, windows, frames, appliances, tubes, sinks, mirrors, toilets, inside and outside cupboards and countertops, and dust all surfaces and baseboards.” While I accept the unit was left clean, I find the tenants failed to take adequate steps to ensure the carpets were seam cleaned and shampooed. For these reasons, I allow the landlord to recover the \$210.00 for cleaning of carpets.

*Policy Guideline #1* also examines the issue of damages to rental property. It states, “the landlord is responsible for repairs to appliances provided under the tenancy agreement unless the damage was caused by the deliberate actions or neglect of the tenant.” After reviewing the evidence submitted by both parties and having considered the testimony provided, I find the tenants are responsible for all costs associated with repairing a broken shelf in the fridge. While conflicting testimony was presented by the parties related to the shelf, I find the condition inspection report which was signed by both parties at the outset of the tenancy notes no damage to the fridge. *Residential Tenancy Rule of Procedure 6.6* notes, the standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. I find therefore, that it is more likely than not that the fridge was in good working order when the tenancy began and will award the landlord a return of the \$202.64 sought for repairs to a shelf.

The final portion of the landlord’s application concerned a return of money sought for replacement of a carpet. The tenants maintained the carpet was dirty at the outset of the tenancy and subject to normal wear and tear. *Policy Guideline #40* places the useful life of a carpet as 10 years. The landlord said the carpet was new in 2013, therefore it was 50% into its useful life. I therefore decline to award the landlord the entire portion sought for the replacement of the carpet. I find an award of \$336.00 would be more appropriate, representing 50% of the carpet’s remaining life. The condition inspection report notes no damage or stains on the carpet at the outset of the tenancy. While the tenants provided testimony questioning the cleanliness of the carpet at the outset of the tenancy, I find I am left to consider the matter on the evidence before me. For these reasons, I award the landlord half of the amount sought.

As the landlord was successful in his application he may recover the \$100.00 filing fee from the tenant. I find the landlord has fulfilled his obligation under section 38 of the Act and applied to retain the tenant’s security deposit within the allowable timeframe. I order the landlord to return the outstanding balance of \$48.86 to the tenants.

I grant an award as follows:

ITEM	AMOUNT
Carpet Cleaning	\$210.00
Repair to Fridge	202.64
½ of carpet replacement	336.00
Return of Filing Fee	100.00
<b>TOTAL =</b>	<b>\$848.64</b>

### Conclusion

The landlord may retain \$848.64 from the tenants' security deposit. The landlord is directed to return the outstanding balance of \$48.86 to the tenants.

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: February 11, 2019

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Residential Tenancy Branch