



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** MNDL-S FFL

### **Introduction**

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for:

- and a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

As the parties were in attendance I confirmed that there were no issues with service of the landlord's application for dispute resolution ('application') and evidence. In accordance with sections 88 and 89 of the *Act*, I find that the tenant was duly served with the landlord's application and evidence. The tenant did not submit written evidence for this hearing.

Both parties confirmed that there was an error in the spelling of the tenant's surname. As neither party was opposed, the tenant's surname was amended to reflect the proper spelling of his name.

### **Issue(s) to be Decided**

Is the landlord entitled to compensation for damage to the rental unit?

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

### **Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began on June 1, 2014, with monthly rent set at \$1,130.00. The landlord collected a security deposit and pet damage deposit in the amount of \$565.00 each deposit, which the landlord still holds. The tenant moved out on September 30, 2018. The tenant had set up auto deposits through his bank for rent payments, and the landlord testified that he was not able to cancel the October 2018 rent payment on time. At the time of the hearing it was unconfirmed by the bank as to whether the tenant was successful in reversing the deposit. The landlord indicated in his application that he wished to apply the October 2018 rent against the monetary amount applied for.

The landlord provided the following list of damages and losses for their monetary claim. I note that the landlord's monetary claim was for a total of \$2,538.37, but the individual amounts listed in the table below as duplicated from the landlord's application totalled \$2,512.51. Accordingly, the landlord's monetary claim of \$2,512.51 was considered.

<b>Item</b>	<b>Amount</b>
Installation of Laminate Flooring living room & kitchen	\$732.42
GST for laminate flooring	36.62
Cost of laminate flooring materials – living room & kitchen	694.58
Laminate flooring – master and spare room	317.64
Installation of door trim & flooring transitions – living room & kitchen	120.00
Painting of walls/baseboard	157.50
Disposal of damaged flooring	87.50
Moving Costs	84.00
Compensation given to new tenants for October 16-21, 2018 (1,130.00/31 * 5 days)	182.25
Filing Fee	100.00
<b>Total Monetary Order Requested</b>	<b>\$2,512.51</b>

The landlord's witness, MV, testified in this hearing, who was the landlord's contractor. MV testified that the original laminate was installed correctly and level on all 4 edges. MV testified that the laminate was installed per manufacturer instructions, and was high quality vapor barrier laminate flooring suitable for basements.

MV testified that the tenant's pets had damaged the flooring by defecating and urinating in the living room, bedroom, and spare room. As a result, the landlord had to replace the flooring in those areas as they were not repairable. MV testified that the flooring was stained with a yellow crystalline substance that resembled and smelled like urine.

The landlord testified that he did not make a monetary claim for the underlay. MV testified that he was the landlord's contractor for 3 years, and had performed repairs around the home as required, including the fences, venting, and plumbing. MV confirmed that the laminate was purchased in 2012, and installed in April of 2012. The new laminate flooring was not installed by MV as he was unavailable, and the repairs were urgent.

The landlord's witness, JC, also attended the hearing, and was present for the move-out inspection. JC testified that he did the painting for the landlord. JC testified that the home was last painted in 2012. JC testified that he had to touch up nail holes and the trim, and repainting the areas after the floor repairs were completed, such as the baseboards that were removed in order to repair the flooring.

The landlord testified that they had mitigated their costs by obtaining quotes as soon as possible at the end of the tenancy, and by housing the new tenants in an empty unit upstairs. The landlord is applying for reimbursement of the compensation that was paid to the new tenants for the 5 days lost due to repairs, as well as the cost of moving the tenants from another vacant unit in the same building to the rental unit.

The landlord provided detailed evidence in support of their claim, which included quotations, itemized costs, as well as the move-out inspection report.

The tenant did not dispute that his dog had damaged the flooring by urinating on the floors, but disputes the amounts claimed by the landlord. The tenant requested that the useful life of the flooring and painting be considered. The tenant feels that the landlord failed to install the proper flooring the areas used. Furthermore the tenant feels that the landlord did not support his monetary claims for the move and compensation to the new tenants, and that the landlord had ample time to perform he repairs before the new tenancy.

## **Analysis**

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

Section 37(2)(a) of the *Act* stipulates 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. The landlord provided a very detailed summary of the damages caused by the tenant, which was supported by colour photos, receipts, estimates, and invoices.

The tenant did not dispute that there was damage to the suite, but he did dispute the amounts claimed by the landlord. I have considered the sworn testimony of all parties, as well as the documentary evidence submitted for this application. I find that the landlord provided sufficient evidence to show that the tenant did not take reasonable care and attention to leaving the rental unit in undamaged condition. On this basis, I find that the landlord is entitled to compensation for the tenant's failure to comply with section 37(2)(a) of the *Act*.

Section 40 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. As per this policy, the useful life of interior paint is four years. Although the interior painting has exceeded its useful life, the landlord clarified that his monetary claim for painting was associated with the touchups required associated with the laminate flooring. I find that the landlord had supported the value of this portion his claim, which I consider to be a reasonable one. Accordingly, I will consider the cost of re-painting in association with the landlord's claim for flooring repairs below.

As per the policy, the useful life of hardwood or parquet flooring is 20 years, while the useful life of tile flooring and carpet is 10 years. Although the flooring used in the rental unit was laminate flooring, I accept the testimony and evidence of the landlord and his contractor that the flooring was installed as per manufacturer specifications, and was the proper grade and material for the rooms the flooring was installed in. I accept the landlord's testimony that the cost of laminate flooring is actually more cost efficient than hardwood flooring, and that the landlord mitigated his costs in choosing laminate for the rental unit. In calculating the useful life of the flooring, I will consider that laminate flooring may require less maintenance as hardwood flooring, but has a useful life of

between 10 and 20 years. Accordingly, I will consider the laminate flooring to have a useful life of 15 years. As the flooring was installed in April of 2012, at the end of the tenancy the laminate flooring had approximately 8 years and 7 months of useful life left. The approximate prorated value of the remainder of the useful life of the laminate flooring is \$86.61, which includes the cost of the painting and touchups associated with the floor repairs ( $\$2,146.26/180 \times 103$ ). Accordingly, I find the landlord is entitled to \$1,228.14 for costs of repairing and replacing the damaged flooring.

As for the remainder of the landlord's monetary claim, I accept the tenant's testimony that the evidence provided by the landlord is not sufficient to support that the landlord's monetary loss was directly due to the tenant's failure to comply with the Act. On this basis, the portion of the landlord's monetary claim is dismissed without leave to reapply.

I find that the landlord's Application has merit and that the landlord is entitled to recover the fee for filing this Application.

The landlord continues to hold the tenant's security and pet damage deposit of \$1,130.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's security deposit in partial satisfaction of the monetary claim. As it could not be confirmed whether the October 2018 rent was still in the landlord's possession, I did not consider this in my calculation.

### **Conclusion**

I issue a Monetary Order in the amount of \$198.14 in the landlord's favour under the following terms which allows a monetary award for damage caused by the tenant, as well as for recovery of the filing fee for this application.

<b>Item</b>	<b>Amount</b>
Compensation for repairs due to tenant's failure to comply with section 37(2)(a) of the <i>Act</i> .	\$1,228.14
Recovery of Filing Fee for this Application	100.00
Less Security & Pet Damage Deposits Held by Landlord	-1,130.00
<b>Total Monetary Order to tenant</b>	<b>\$198.14</b>

The landlord is provided with this Order in the above terms and the tenant must be served with a copy of this Order as soon as possible. Should the tenant 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.

The remaining portions of the landlord's monetary claim is dismissed without leave to reapply.

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: March 18, 2019

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Residential Tenancy Branch