



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND FF

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on January 2, 2019 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "*Act*"):

- a monetary order for damage to the unit, site, or property; and
- an order granting recovery of the filing fee.

The Landlord and the Tenants attended the hearing at the appointed date and time, and provided affirmed testimony.

The Landlord testified that the Application package was served on the Tenants by registered mail on January 5, 2019. A Canada Post registered mail receipt was submitted in support. The Tenants acknowledged receipt. In addition, the Tenants submitted documentary evidence in response to the Application. The Tenants testified it was served on the Landlord on his door and by registered mail. The Landlord acknowledged receipt. Neither the Landlord nor the Tenants raised any issue with respect to service and receipt of the above documents. The parties were in attendance and were prepared to proceed. Therefore, pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were provided with a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Landlord entitled to a monetary order for damage to the rental unit?
2. Is the Landlord entitled to an order granting recovery of the filing fee?

### Background and Evidence

The parties confirmed the tenancy began on May 15, 2017, and ended by agreement on December 3, 2018. During the tenancy, rent in the amount of \$1,600.00 per month was due on or before the 15<sup>th</sup> day of each month. The Tenants paid a security deposit in the amount of \$800.00, which has been returned to the Tenants. Although the issue is not before me, there may be some dispute about the timing of the repayment of the security deposit to the Tenants.

The Landlord's claim is set out in the Application. The Landlord claimed a total of \$507.50 to clean the rental unit. Specifically, the Landlord claimed \$140.00 for carpet cleaning and \$367.50 for general cleaning in the rental unit. With respect to carpet cleaning, the Landlord testified that the carpets were not cleaned at the end of the tenancy and that the Tenants had a pet in the rental unit. Although the Landlord submitted a receipt for the amount claimed, no photographs of the carpet were submitted.

With respect to general cleaning, the Landlord submitted photographs that included vents, furnace filters, the laundry room floor, and the toilet. The Landlord also submitted a receipt for the amount claimed but indicated he understood certain aspects of the invoice to be his responsibility.

In reply, the Tenants testified that there was no damage to the carpets during the tenancy, that they were last cleaned in May 2018, and that the rental unit was left in satisfactory condition

Further, the Tenants testified that the rental unit was cleaned at the end of the tenancy. The Tenants testified there is "no proof" of much of the cleaning that appears on the itemized invoice. For example, the Tenants testified there is no photographic evidence of issues with bathroom tiles, shower glass, the kitchen. With respect to the photograph of the toilet, the Tenants submitted that the staining that appears on the toilet is from "hard water". With respect to the lint that collected under or near the washer and dryer, the Tenants advised the machines were not on rollers and that they did not want to risk

damage to the vinyl floor by moving them. The Tenants also testified that the Landlord did not complete a move-in or a move-out condition inspection, which was not disputed by the Landlord.

### Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. An applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Landlord to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenants. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did what was reasonable to minimize the damage or losses that were incurred.

After careful consideration of the evidence provided by the parties, I find there is insufficient evidence before me to grant the relief sought. The Landlord did not provide photographic evidence to confirm the condition of the carpeting at the beginning or end of the tenancy. Therefore, I am unable to determine whether or not carpet cleaning was required, or that it was caused by the Tenants.

Further, the general cleaning invoice included items for which no documentary evidence was submitted. While the Landlord did provide some photographs of the interior of the rental unit, these depicted light dust on vents, dirty furnace filters, dust around the washing machine opening, lint on the laundry room floor, and a light stain in the toilet bowl. Significantly, the Landlord did not provide copies of signed move-in and move-out condition inspections, which would be reliable evidence of the condition of the rental unit at the beginning and end of the tenancy.

I also note the Tenants testified that the rental unit was cleaned at the end of the tenancy, and drew attention to the lack of evidence in support of some of the cleaning that appears on the itemized invoice.

In light of the above, I find that the Landlord's Application is dismissed, without leave to reapply.

### Conclusion

The Landlord's Application 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: April 25, 2019

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Residential Tenancy Branch