



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding VISTA REALTY LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDL-S, FFL

### Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “Act”) for compensation for damages, to retain the security deposit towards compensation owed and for the recovery of the filing fee paid for the Application for Dispute Resolution.

Two agents for the Landlord (the “Landlord”) were present for the teleconference hearing and were affirmed to be truthful in their testimony. No one called in for the Tenant during the time the phone line remained open for the hearing.

The Landlord testified that they sent the Notice of Dispute Resolution Proceeding package and a copy of their evidence to the Tenant by registered mail. The Landlord submitted copies of two registered mail receipts and stated that the address was provided by the Tenant in an email dated January 11, 2019. The Landlord noted that the address provided was not the Tenant’s place of residence but an address where he could be reached by mail. The tracking numbers are included on the front page of this decision. Entering the tracking numbers on the Canada Post website confirms that one package was delivered on January 22, 2019 and the other on April 11, 2019. As such, I find that the Tenant was duly served in accordance with Sections 88 and 89 of the *Act*.

### Issues to be Decided

Is the Landlord entitled to monetary compensation for damages?

Should the Landlord be authorized to retain the security deposit towards any compensation owing?

Should the Landlord be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

### Background and Evidence

The Landlord provided undisputed testimony on the tenancy which was also confirmed by the tenancy agreement that was included in evidence. The tenancy began on December 15, 2017 and ended on December 30, 2018. Monthly rent was \$3,300.00 and a security deposit of \$1,650.00 was paid at the outset of the tenancy. The Landlord confirmed that they are still in possession of the full security deposit amount.

The Landlord stated that the Tenant rented out the unit through a short-term rental website throughout the tenancy, despite multiple warnings not to do so. As such, the Landlord stated that there was damage throughout the rental unit at the end of the tenancy. The Landlord submitted into evidence copies of emails with the strata corporation regarding their concerns over the short-term rental of the unit and discussion of strata bylaw fees that may be charged to the owner of the rental unit.

The Landlord state that they arranged a move-out inspection with the Tenant on January 5, 2019 but as the Tenant did not attend, they completed the inspection without the Tenant. The inspection report was submitted into evidence and was signed by the Tenant and Landlord at move-in on December 13, 2017 and signed by only the Landlord on January 5, 2019.

The Landlord has claimed \$300.00 for the cost of move-out cleaning as indicated on an invoice dated January 16, 2019. They have also claimed \$157.50 for carpet shampoo and cleaning and noted that they did not receive the invoice in time to submit it into evidence.

The Landlord testified that there was damage to the walls throughout the rental unit, burnt out lightbulbs, damage to the bathroom tissue holder and damage to the transition strip on the floor. They are claiming \$525.00 for the repair of this damage which includes sanding and painting of the damaged walls areas and repairs throughout the rental unit. The Landlord submitted an invoice dated January 15, 2019 in the amount of \$525.00.

The Landlord has also claimed \$200.00 for the repair of a sectional couch and a chair that were damaged during the tenancy. The Landlord stated that this was a furnished rental unit. They submitted photos of various areas of the rental unit including photos of the damaged couch and chair.

Lastly, the Landlord has claimed a total of \$100.00 for the replacement of keys. This includes the replacement of a visitor parking pass in the amount of \$75.00 and the replacement of a common area key in the amount of \$25.00. They submitted copies of the payments to the strata corporation showing payments which totals \$100.00 paid on January 28, 2019.

### Analysis

While I have considered the relevant documentary evidence and testimony of the Landlord, not all details of the submissions are reproduced here.

Section 7(1) of the *Act* states the following:

7 (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

As stated in Section 37 of the *Act*, at the end of the tenancy the tenant must leave the rental unit reasonably clean and undamaged. As the Landlord submitted evidence that establishes that the Tenant may have been in breach of Section 37, I find that the Tenant may be responsible for costs associated with cleaning and repairs.

I accept the undisputed testimony and evidence of the Landlord regarding the damage that occurred during the tenancy. I find that the Condition Inspection Report notes the condition of the rental unit at the start of the tenancy, as agreed to by both parties and the move-out report indicates that the damage occurred during the tenancy. I also accept the photos that show the damage and the invoices that support the Landlord's testimony regarding the amounts claimed.

Although the Landlord did not submit an invoice for the cost of carpet cleaning, I accept their testimony regarding the amount spent and find it reasonable that the carpets would be steamed cleaned at the end of a year-long tenancy as noted in *Residential Tenancy Policy Guideline 1*. I also find the amount claimed to be a reasonable amount for carpet cleaning.

The Landlord also did not submit an invoice for the cost of repairs for the couch and chair. As well, as there was no information submitted about the condition of the couch and chair at the start of the tenancy, I find that I have insufficient evidence to establish that damage to the couch and chair occurred during the tenancy and that the Tenant

should be responsible for the cost of repairs. Therefore, I decline to award compensation for this repair.

As for the Landlord's claim for cleaning in the amount of \$300.00 and repairs in the amount of \$525.00, I accept the evidence before me that establishes that the rental unit was not left clean and that there were repairs needed throughout the rental unit. I also find sufficient evidence to establish the value of the loss experienced by the Landlord through the invoices submitted for the cleaning and repairs.

Regarding the Landlord's claim for the cost of key replacement, I find that the Tenant is responsible for the \$100.00 paid to the strata corporation. The Condition Inspection Report outlines the keys provided to the Tenant at the start of the tenancy and the ones which were not returned at the end. I also find the receipts submitted establish that the replacement cost was \$100.00. Therefore, I award reimbursement of these costs to the Landlord.

As the Landlord has applied to retain the security deposit towards compensation owed, I 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.

I accept the undisputed testimony of the Landlord that the tenancy ended on December 30, 2018 and that they received the Tenant's forwarding address on January 11, 2019. As the Landlord filed the Application for Dispute Resolution on January 14, 2019 I find that they applied within 15 days and were therefore in compliance with Section 38(1) of the *Act*. Pursuant to Section 38(4)(b) the Landlord may retain the security deposit towards the amount owed.

As the Landlord was mostly successful with their application, pursuant to Section 72 of the *Act*, I award the recovery of the filing fee in the amount of \$100.00.

The Landlord must return the remainder of the security deposit to the Tenant as outlined below:

Security deposit	\$1,650.00
<i>Less cleaning</i>	<i>(\$300.00)</i>
<i>Less repairs/painting etc.</i>	<i>(\$525.00)</i>
<i>Less carpet cleaning</i>	<i>(\$157.50)</i>
<i>Less parking pass and key replacement</i>	<i>(\$100.00)</i>
<i>Less filing fee</i>	<i>(\$100.00)</i>
<b>Total owing to Tenant</b>	<b>\$467.50</b>

### Conclusion

Pursuant to Sections 38, 67 and 72 of the *Act*, the Landlord must pay the Tenant an amount of **\$467.50** for the return of the remainder of the security deposit after deductions as outlined above. The Tenant is provided with a Monetary Order in this amount to be served upon the Landlord should the remainder of the security deposit not be returned. If the Landlord fails 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: May 08, 2019

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Residential Tenancy Branch