



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding HOLLYBURN ESTATES LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, MNR, MND, MNSD, FFT

### Introduction

On January 25, 2019, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for a monetary order for money owed or compensation for damage or loss; for a monetary order for unpaid rent or utilities; for a monetary order for damage; to keep the security deposit; and to recover the cost of the filing fee. The matter was set for a conference call hearing.

The Landlord attended the teleconference hearing; however, the Tenant did not. The Landlord provided affirmed testimony that the Tenant was served the Notice of Dispute Resolution Proceeding using registered mail sent on February 1, 2019. The Landlord testified that they checked the delivery status and Canada Post shows that the mail was re-directed to the Tenant. The Landlord testified that the Tenant acknowledged receiving the Notice of Dispute Resolution Proceeding documents in an email.

Based on the affirmed testimony of the Landlord, I find that the Tenant has been duly served with the Notice of Dispute Resolution Proceeding in accordance with sections 89 and 90 of the *Act*. The Tenant is deemed served with the Notice on February 6, 2019, the fifth day after it was mailed.

The Landlord was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

### Issues to be Decided

- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the Landlord entitled to money owed or compensation for damage or loss?
- Is the Landlord entitled to a monetary order for damage to the unit?
- Is the Landlord entitled to keep the security deposit towards unpaid rent?

### Background and Evidence

The Landlord testified that the tenancy began on May 15, 2017, as a one year fixed term tenancy that continued thereafter on a month to month basis. Rent in the amount of \$1,185.00 was to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit in the amount of \$580.00. The Landlord testified that the Tenant moved out of the rental unit on January 15, 2019. The Landlord testified that parking is an additional \$25.00 each month.

The Landlord is seeking compensation for the following items:

Unpaid Rent/ parking and late fee	\$1,235.00
Drapery Cleaning	\$56.70
Carpet Cleaning	\$94.50
Cleaning and Repairs	\$150.00
Flat rate cleaning	\$130.00
Filing Fee	\$100.00

### Unpaid Rent \$1,047.00

The Landlord testified that the Tenant did not give the Landlord proper notice to end the tenancy. The Landlord testified that the Tenant did not pay all the rent owing for the month of January 2019. The Landlord testified that the Tenant paid \$138.00 that they have applied towards January rent. The Landlord testified that the Tenant also had a credit of \$19.84 that the Landlord has applied to the rent owing. The Landlord provided a notice to vacate dated December 12, 2018 that the Landlord received from the Tenant.

The Landlord is seeking compensation in the amount of \$1,027.16 for unpaid January 2019, rent.

### Parking

The Landlord testified that the Tenant did not pay the parking fee of \$25.00 owing for January 2019. The tenancy agreement includes a monthly \$25.00 parking fee.

### Late Fee

The Landlord testified that the tenancy agreement provides that the Tenant will pay a late fee of \$25.00 for late payment of rent. The Landlord is seeking to recover the amount of \$25.00 due to the Tenant's failure to pay all the rent owing for January 2019.

Drapery Cleaning    \$56.70

The Landlord testified that the drapes in the rental unit were professionally cleaned at the start of the tenancy. The Landlord testified that the tenancy agreement requires that the Tenant clean the drapes at the end of the tenancy. The Landlord testified that the Tenant did not have drapes cleaned. The Landlord is seeking to recover the amount of \$56.70 for the cost of having the drapes cleaned. The Landlord provided a photograph of the drapes. The Landlord provided a receipt in the amount of \$56.70.

Carpet Cleaning    \$94.50

The Landlord testified that the carpet was left dirty at the end of the tenancy. The Landlord provided photographs of the carpet.

The Landlord provided a receipt dated January 28, 2019, for carpet cleaning in the amount of \$94.50.

Cleaning and Repairs

The Landlord testified that the unit was left unclean and needed repairs. The Landlord testified that they spent five hours cleaning the rental unit at \$30.00 per hour. The Landlord testified that there was grease on the kitchen cabinets. The Landlord testified that the floors, walls, toilet and balcony also required cleaning. The Landlord submitted that they are claiming \$55.00 for the cost to clean the range/oven; \$45.00 to clean the refrigerator; \$30.00 for the range hood fan; and \$5.00 for light bulbs. The Landlord testified that the Landlord also had make repairs such as patching holes in drywall and reattaching a closet door.

The Landlord provided photographs of the rental unit taken at the end of the tenancy and a schedule for the costs of cleaning and replacement charges.

Payments Received From the Tenant

The Landlord testified that the Tenant has already paid the Landlord the following amounts:

- March 2019 the Tenant paid \$300.00.
- May 2019 the Tenant paid \$275.00.

### Security Deposit

The Landlord is seeking to keep the security deposit of \$580.00 in partial satisfaction of the claims.

### Analysis

When a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. To prove the claim, the Applicant must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act, Regulation or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss; and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Residential Tenancy Branch Policy Guideline # 16 states the following with respect to types of damages that may be awarded to parties:

*An arbitrator may award monetary compensation only as permitted by the Act or the common law. In situations where there has been damage or loss with respect to property, money or services, the value of the damage or loss is established by the evidence provided.*

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I make the following findings:

### Unpaid Rent \$1,027.16

Residential Tenancy Policy Guideline #3 Claims for Rent and Damages for Loss of Rent deals with situations where a landlord seeks to hold a tenant liable for loss of rent after the end of a tenancy agreement. The guideline provides that:

*damages awarded are an amount sufficient to put the landlord in the same position as if the tenant had not breached the agreement. As a general rule this includes compensating the landlord for any loss of rent up to the earliest time that the tenant could legally have ended the tenancy.*

I find that the Tenants notice to end tenancy did not comply with the requirements of section 45 of the Act. The Tenant gave written notice on December 12, 2018, and the earliest time that the Tenant could end the tenancy was January 31, 2019. I find that the Tenant is responsible to pay the rent for the entire month of January 2019.

The Landlord is awarded the amount of \$1,027.16 for January 2019 rent.

Parking \$25.00

I find that the tenancy agreement contains a term that the Tenant will pay a monthly parking fee of \$25.00. I accept the Landlords testimony that the Tenant failed to pay the parking fee for January 2019.

I grant the Landlord the amount of \$25.00.

Late Rent Fee \$25.00

I find that the tenancy agreement contains a term that the Tenant will pay a \$25.00 fee for late payment of rent. I find that the Tenant did not pay the rent for January 2019 on time.

I grant the Landlord \$25.00 for a late rent payment fee.

Drapery Cleaning \$56.70

A Tenant is expected to leave the internal window coverings clean at the end of a tenancy. I accept the Landlords evidence that the drapes required cleaning.

The Landlord is awarded the amount of \$56.70 for drapery cleaning.

Carpet Cleaning \$94.50

Residential Tenancy Policy Guideline #1 Responsibility for Residential Premises provides that a 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.

I find that the Tenant failed to have the carpet cleaned at the end of the tenancy and the Tenant is responsible for the carpet cleaning costs.

The Landlord is awarded the amount of \$94.50.

### Cleaning and Repairs

I have considered the Landlord's testimony and photographic evidence showing the condition and state of repair of the rental unit at the end of the tenancy. I find that the Tenant left the rental unit unclean.

I accept the Landlord's testimony that the Landlord spent time cleaning and repairing the rental unit. I find that the Landlord's monetary claim is reasonable to perform the cleaning and repairs.

I grant the Landlord the amount of \$285.00 for cleaning and repairs to the unit.

### Security Deposit \$580.00

I authorize the Landlord to keep the security deposit of \$580.00 in partial satisfaction of the Landlord's awards.

I also accept the Landlord's testimony that the Tenant has paid \$575.00 towards the Landlord's claims.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$1,613.36.

After setting off the security deposit of \$580.00 and the payments received of \$575.00 towards the claim of \$1,613.36, I find that the Landlord is entitled to a monetary order for the balance of \$458.36. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

### Conclusion

The Landlord is successful with their claims for unpaid rent, parking, and costs for cleaning and damage to the rental unit.

I order that the Landlord can keep the security deposit in the amount of \$580.00 in partial satisfaction of the claim.

After setting off the security deposit of \$580.00 and the payments received of \$575.00 towards the award of \$1,613.36, I find that the Landlord is entitled to a monetary order for the balance of \$458.36.

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 30, 2019

---

Residential Tenancy Branch