



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PROMPTON REAL ESTATE SERVICES INC & CORRY  
BUCHANAN and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND, MNSD, FFL

On March 8, 2019, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* ("the Act") for a monetary order for damage to the unit; 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's agent and the Tenant, Mr. M.B. attended the teleconference.

At the start of the hearing I introduced myself and the participants. The Landlord and Tenant provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The Tenant testified that he received the Landlord's documentary evidence that I have before me. The Tenant did not provide any documentary evidence in response to the Landlord's claims.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Is the Landlord entitled to a monetary order for damage to the unit?
- Is the Landlord entitled to keep the security deposit and pet damage deposit towards his claims?

### Background and Evidence

The Landlord and Tenant testified that the tenancy began on February 1, 2017, as a one year fixed term tenancy that continued thereafter on a month to month basis. Rent in the amount of \$3,200.00 was to be paid to the Landlord by the first day of each

month. The Tenants paid the Landlord a security deposit in the amount of \$1,500.00. The parties testified that the Tenants moved out of the rental unit on February 28, 2019.

The Landlord is seeking compensation for the following items:

Cleaning Costs	\$420.00
Painting Costs	\$493.50

#### Cleaning Costs

The Landlord testified that the rental unit was left unclean at the end of the tenancy. She testified that many items were left dirty and a full move out clean was performed. The Landlord provided photographs of the rental unit taken at the end of the tenancy. The Landlord referred to a condition inspection report completed at the end of the tenancy showing the condition and state of repair of the rental unit. The Landlord testified that two cleaners were hired to clean the unit. The Landlord is seeking to recover the cleaning costs of \$420.00.

In reply, the Tenant testified that the rental unit was not clean when the Tenants moved in. The Tenant testified that the Landlord's photographs are not comparable because there are no photographs taken at the start of the tenancy for comparison.

The Tenant testified that he cleaned the unit prior to moving out. The Tenant testified that the Landlord is being unfair and nit-picking at the end of the tenancy. The Tenant testified that the rental unit did not need 8 hours of cleaning.

The Landlord replied that the condition of the rental unit was not dirty or unclean at the start of the tenancy.

#### Painting Costs

The Landlord is seeking a monetary order for the cost to repaint the interior of the rental unit. The Landlord testified that an agreement was reached where the Tenant was permitted to paint interior walls with the agreement that the Tenants would re-paint the walls back to the original white color. The Landlord testified that at the end of the tenancy, the Tenant only applied one coat of white paint which was not sufficient as a blue color could be seen.

The Landlord testified that the Tenant was reminded of the agreement to repaint towards the end of the tenancy.

The Landlord is seeking \$240.00 for the re-painting of the walls and \$40.00 for painting a bedroom door. The Landlord testified that a company was hired to repaint the two walls and a bedroom door with two coats of paint and that the work was completed on March 4, 2019. The Landlord provided photographs of the walls and damaged door. The Landlord provided an invoice receipt for the painting costs.

The condition inspection move out report completed on February 28, 2019, indicates that the walls were not painted properly and there was damage to a bedroom door.

In reply, the Tenant testified that he applied two coats of paint and acknowledged that the walls could have used an additional coat of paint. The Tenant testified that the Landlord told him they would be performing work and doing some painting. The Tenant testified that there were stickers on the bedroom door and he removed the stickers and patched the door.

#### Halogen Lights

The Landlord testified that there were halogen lights missing from the unit that needed to be replaced. The Landlord is seeking \$160.00 for the cost to replace halogen lights. The Landlord provided numerous photographs showing ceiling lights that are missing light bulbs. The Landlord provided an invoice that indicates nine halogen bulbs were purchased and installed in the kitchen and living room.

The condition inspection move out report completed on February 28, 2019, indicates that there were eight light bulbs missing.

In reply, the Tenant testified that there were lights missing when he moved into the rental unit.

#### Flooring Costs

The Landlord is seeking a monetary order in the amount of \$640.00 for the cost to repair stains and scratches on laminate flooring. The Landlord testified that there were two large stains on the white laminate flooring. The Landlord testified that the two stains were not present at the beginning of the tenancy. The Landlord testified that the flooring was originally installed in 2015.

The Landlord testified that there were also scratches present on laminate flooring. The Landlord provided three photographs showing stains and scratches on the flooring. The photograph of the stains shows that the staining was present on an area of approximately two slats. The Landlord testified that the stained and scratched laminate flooring slats were replaced.

The condition inspection move out report completed on February 28, 2019, indicates that the Livingroom floor had yellow staining and there were marks on a hallway floor.

In reply, the Tenant provided testimony acknowledging that there were stains on the Livingroom floor. He testified that he was asked to put area rugs down on the floor and he put them in that area.

The Tenant submitted that the damage shown in the Landlord's photographs only amounts to normal wear and tear.

The Landlord was asked to provide a breakdown of the cost to repair the stained flooring and the cost to repair the scratched flooring. The Landlord responded that she is not in a position to explain the specific cost incurred for each floor repair. The Landlord referred to a monetary order worksheet; however, a copy was not located in the documentary evidence provided by the Landlord.

### Security Deposit

The Landlord applied for dispute resolution on March 8, 2019, seeking to keep the security deposit of \$1,500.00 in partial satisfaction of the Landlord's 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:

#### Cleaning Costs

The condition inspection report makes no mention that the rental unit was unclean when the Tenant moved in. Furthermore, the Tenant is required to leave the rental unit clean at the end of the tenancy, regardless of the condition of the unit at the start of a tenancy.

The condition inspection report dated February 28, 2019, indicates that the rental unit requires extra cleaning in the kitchen area. The report indicates that the unit will require two hours of cleaning for a cost of \$100.00. After considering the Landlord's photographs taken at the end of the tenancy, I find that the photographs show that light cleaning was required in the kitchen. I find that there was a small amount of dirt in some drawers, cupboards, shelves, and floor. I find that the oven was left unclean.

I find that the Landlord's claim for \$420.00 for cleaning costs is excessive for the amount of cleaning that was required. I find that the amount of cleaning is more in line with the amount provided in the condition inspection report.

I find that the Tenant is responsible to repay the Landlord the amount of \$100.00 for the cost of cleaning the unit at the end of the tenancy.

#### Painting Costs

I find that the Tenant failed to adequately re-paint the interior walls to the original color at the end of the tenancy. I also find that the Tenant is responsible for damage to the bedroom door that required repainting.

I grant the Landlord the amount of \$280.00 for the cost to repaint the walls and door of the rental unit at the end of the tenancy.

### Replacement of Light Bulbs

Residential Tenancy Branch Policy Guideline #1 provides that a Tenant is responsible for replacing light bulbs in his or her premises during the tenancy.

If light bulbs were missing at the start of the tenancy, the Tenant should have addressed the issue with the Landlord at the start of the tenancy. There was no documentary evidence provided by the Tenant in response to the Landlord's claims. The condition inspection report for the move in inspection does not indicate that any light bulbs were missing.

While I note that the Tenant did not agree that the condition inspection report fairly represents the condition of the unit at the end of the tenancy, the Tenant did not provide any documentary evidence to refute its reliability. In addition, the Landlord has provided numerous photographs showing missing lightbulbs.

I am satisfied on a balance of probabilities that the Tenant is responsible for the Landlord's cost to replace eight light bulbs at the end of the tenancy.

I award the Landlord the amount of \$142.16 for the replacement cost and installation of halogen lightbulbs at the end of the tenancy. [ $\$160.00 / 9 = \$17.77 \times 8 = \$142.16$ ].

### Flooring

I find that the Tenant is responsible for the staining on the living room laminate flooring.

I have considered the Tenant's submission that the scratches on the floor are normal wear and tear. The flooring was installed in 2015, and the Tenant lived in the rental unit for two years until February 2019, and it is reasonable to accept that there will be some wear and tear on the laminate flooring. I have reviewed the Landlord's photographic evidence showing scratches on the floor and I find that the damage shown is not significant. I find that scratches on the flooring amount to normal wear and tear.

The Landlord was not able to provide a breakdown on the Landlord's cost for each of the flooring repairs. I find that I am unable to determine the value of the Landlord's loss for the repair of the two stained laminate slats.

Since I have found that the Tenant is responsible for the damage but the actual value of the loss cannot be determined, I award the Landlord nominal damages in the amount of \$150.00 for the stained laminate flooring.

### Security Deposit

The tenancy ended on February 28, 2019, and on March 8, 2019, the Landlord applied for dispute resolution to keep all or part of the security deposit. The security deposit of \$1,500.00 will apply to any monetary awards granted to the Landlord.

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.

The Landlord is awarded the amount of \$672.16 for cleaning and repairs and \$100.00 for the cost of the filing fee for a total award of \$772.16.

I authorize the Landlord to retain the amount of \$772.16 from the security deposit of \$1,500.00. I order the Landlord to repay to the Tenants, the balance of \$727.84 from the security deposit.

I grant the Tenant a monetary order in the amount of \$727.84. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Landlord is cautioned that costs of such enforcement are recoverable from the Landlord.

### Conclusion

The Landlord was partially successful with claims for damage and cleaning costs.

I authorize the Landlord to retain the amount of \$772.16 from the security deposit of \$1,500.00.

I order the Landlord to repay the Tenant the amount of \$727.84 and I grant the Tenant a monetary order in the amount of \$727.84.

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: July 17, 2019

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Residential Tenancy Branch