



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, FFL

### Introduction

This teleconference hearing was scheduled in response to an application by the Landlords under the *Residential Tenancy Act* (the “Act”) for monetary 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.

Both Landlords and both Tenants were present for the duration of the teleconference hearing. The Tenants confirmed receipt of the Notice of Dispute Resolution Proceeding package and a copy of the Landlords’ evidence package. The Tenants did not submit any evidence prior to the hearing. The Tenants did not bring up any issues regarding service.

The parties were affirmed to be truthful in their testimony and were provided with the opportunity to present evidence, make submissions and question the other party.

### Issues to be Decided

Are the Landlords entitled to monetary compensation for damages?

Should the Landlords be authorized to retain the security deposit towards compensation owed?

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

### Background and Evidence

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

The parties were in agreement as to the details of the tenancy which were also confirmed by the tenancy agreement submitted into evidence. The tenancy began on April 1, 2018 and ended on March 31, 2019. Rent in the amount of \$1,700.00 was due on the first day of each month. A security deposit of \$850.00 was paid at the outset of the tenancy and the Landlords are still in possession of the full security deposit amount.

Although the tenancy agreement notes a pet damage deposit of \$850.00, the parties agreed that this was not paid, but instead was noted as the amount to be paid should the Tenants get pets. The Landlords stated that the Tenants did not notify them that they had pets in the rental unit and therefore did not pay the pet deposit. The Tenants confirmed that they had two dogs in the rental unit during the tenancy.

The Landlords are seeking a total of \$4,703.94 as outlined on the Monetary Order Worksheet submitted into evidence. This includes \$1,841.28 for new carpet and underlay materials, \$857.85 for installation of the new carpet and underlay, and \$12.00 for disposal fees for the old carpet and underlay. The Landlords submitted into evidence invoices/receipts for these three claims. An invoice dated April 6, 2019 shows a charge of \$1,841.28 for carpet and underlay, an invoice dated April 13, 2019 shows a charge of \$857.85 for installation of the new carpet, and a receipt dated April 7, 2019 shows a charge of \$12.00 for disposal at a landfill.

The Landlords stated that at the end of the tenancy the carpet was in poor condition. They noted that the carpet was new in 2008 and was in good condition at the start of the tenancy as indicated on the Condition Inspection Report at move-in. The Landlords testified that the carpet was significantly stained, despite the Tenants having it professionally cleaned, and other had areas where patches had been applied. They stated that in the living room a patch had been replaced from a section cut out of the master bedroom closet. They also noted that there was carpet glue present in areas and that the underlay had a distinct animal urine odour. The Landlords submitted photos of the carpet into evidence.

The Landlord stated that due to the staining and patched areas, as well as the urine on the underlay, they were unable to repair the carpet and instead needed to replace the carpet in all three rooms. The Landlord stated that although the patched areas were in the living room and master bedroom closet, the carpet needed replacing in all three rooms due to the staining and urine odour, as well as to keep the carpets matching.

The Tenants were in agreement that the carpet was stained and that they had fixed the carpet with a patch to the best of their ability. They stated that they are responsible for a portion of the cost of the carpet repair and made an offer to pay a percentage which the Landlords declined. The Tenants stated their belief that the carpets in all three rooms did not need to be replaced but was done so as the Landlords wanted the carpets to match.

The Landlords have also claimed \$1,700.00 for compensation for one month of rent. They stated that due to the repairs and cleaning required in the rental unit, they were unable to re-rent the unit and lost one month of rental income. They stated that they respected the Tenants' privacy and therefore were not in a rush to show the unit and rent it right away while the Tenants were in the process of moving out but were hoping to have a new tenant in the unit for April 15, 2019.

However, once the carpet repairs were complete and then the unit cleaned, the Landlords stated that they were unable to start showing the unit until April 30, 2019. The Landlords were unsure as to the exact date that the unit was listed for re-rental but stated that they began making arrangements to work with a property manager in February 2019. They stated that they provided her keys to the rental unit to begin showing the unit as of April 1, 2019. The Landlords testified that the unit was initially advertised for \$1,800.00 after the carpet repairs were completed but was later lowered to \$1,700.00.

The Tenants stated that at the move-out inspection they were advised that everything looked good except for the patching in the carpet. They stated that they provided over a month notice that they would be moving out and during that time there was no sign that the Landlords were trying to re-rent the unit such as notices to enter for showings.

The Landlords are also seeking \$252.00 for cleaning the rental unit. They stated that this includes window sills, toilet, mirrors, oven and other areas throughout the unit. They submitted photos into evidence that they stated were taken on March 31, 2019 or April 1, 2019. On the Condition Inspection Report the stove/stove top, oven, taps/sink, refrigerator, and the carpet were noted as being dirty, in fair or poor condition. The report also notes the following:

*Damage to rental unit or residential property for which the tenant is responsible:*

*Carpet in living room and master bed closet.*

*Cleaning of the unit. Current state is not acceptable.*

The Tenants signed the report stating that they agreed that the report fairly represents the condition of the rental unit.

The Landlords stated that the cost of cleaning was 6 hours at \$40.00 per hour but were not sure if they submitted the receipt into evidence. They noted that they waited until after the carpets were replaced so that the unit was cleaned and ready to re-rent following this.

The Tenant stated that they cleaned the rental unit when they moved out. They also noted that although they signed the Condition Inspection Report agreeing to the condition of the unit, the statement regarding cleaning was added afterwards as they only signed with the statement about the carpets. They also questioned why if the whole unit needed cleaning that the report does not note "poor" condition throughout the areas of the rental unit.

The Tenants submitted that they did forget to clean the oven, but that the rest of the rental unit was clean.

Lastly, the Landlords are claiming \$40.81 for replacement of moulding above the patio door that was damaged during the tenancy. The Tenants did not dispute this claim and agreed to pay the amount of \$40.81 out of their security deposit.

The parties agreed that the Tenants' forwarding address was provided on the Condition Inspection Report on March 31, 2019.

### Analysis

Based on the testimony of both parties and the evidence of the Landlords, I find as follows regarding each of the Landlords' claims:

**Carpet repair:** The Landlords have claimed a total of \$2,711.13 for the cost of purchasing new carpet, the installation costs, and the disposal fees of the old carpet. I accept the testimony of the Tenants that some damage to the carpet occurred during the tenancy, including an area where they attempted to repair damage to the carpet through patching. As stated in Section 37 of the *Act*, a tenant must leave a rental unit reasonably clean and undamaged at the end of the tenancy.

As such, I find that the Tenants should be responsible for some of the costs of repairing the carpet. I also note that the Landlords testified that the carpet is approximately 10

years old. As stated in *Residential Tenancy Policy Guideline 40*, the useful life of a carpet is approximately 10 years.

However, due to the damage, I do find that the Landlords had to replace the carpet likely sooner than they would have otherwise as the carpet seemed to be in decent condition at the start of the tenancy. I do not find that the Tenants should be responsible for a brand-new carpet as the carpet was not brand new at the start of the tenancy. Therefore, I find it reasonable that the Tenants would be responsible for half the costs of the carpet replacement and associated costs in the amount of \$1,355.57 and award this amount to the Landlord.

**One month rent:** While the Landlords stated that they were unable to re-rent the unit right away due to the time required to clean and replace the carpet as stated in Section 7 of the *Act*, a party claiming a loss also has a duty to take reasonable steps to mitigate their potential loss. In the absence of evidence that would establish when the Landlords began advertising the rental unit, how they advertised, and other such information, I find that I do not have sufficient evidence to establish that the Landlords took reasonable steps to mitigate.

The Landlords also testified that they did not advertise right away after receiving notice to end the tenancy from the Tenants and were hoping to rent for April 15, 2019, despite now claiming compensation for the entire month. As I also do not have evidence before me that they advertised in time to re-rent the unit for April 15, 2019 and were unable to do so due to the repairs required, I do not find that the Landlords met the burden of proof in establishing their claim for unpaid rent. I decline to award April rent in the amount of \$1,700.00.

**Cleaning:** Regarding the Landlords' claim for cleaning in the amount of \$252.00, I accept the photos submitted into evidence by the Landlords that show many areas of the rental unit that required cleaning. I also find that the Condition Inspection Report notes that cleaning was required and despite the Tenants' claim that this statement was added afterwards, I do not find sufficient evidence to establish this. Instead, I find it likely that the Tenants signed the Condition Inspection Report as it was written. I also find that many areas of the kitchen were noted as in 'poor' or 'fair' condition on the report and that the Tenants agreed that they forgot to clean the oven.

As stated in Section 37 of the *Act*, a tenant must leave a rental unit reasonably clean and undamaged at the end of the tenancy. I accept the testimony and evidence before me and find that the Tenants were not in compliance with this requirement. Despite the

Landlords being unable to reference a cleaning receipt submitted into evidence, I find the amount claimed to be reasonable to clean the areas mentioned on the Condition Inspection Report and as shown in the photos, and therefore find that the Landlords established that they are entitled to compensation for cleaning in the amount of \$252.00.

**Moulding replacement:** I accept that the Tenants agree to pay the amount of \$40.81 for replacement of the moulding above the patio door and therefore award this amount to the Landlords.

**Security deposit:** As stated in Section 38(1) of the *Act*, within 15 days of the later of when the tenancy ends, or the forwarding address is provided in writing, the landlord must return the deposit or file a claim against it. As the tenancy ended on March 31, 2019, the same day that the Tenants forwarding address was provided in writing and the Landlords filed the application on April 14, 2019, I find that the Landlords applied within the 15 days allowable. As such, the Landlords were in compliance with Section 38(1) of the *Act* and may retain the security deposit towards compensation owed.

As the Landlords were partially 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 Landlords are granted a Monetary Order in the amount outlined below:

Carpet repair	\$1,355.57
Cleaning	\$252.00
Moulding replacement	\$40.81
Filing fee	\$100.00
<i>Less security deposit</i>	<i>(\$850.00)</i>
<b>Total owing to Landlord</b>	<b>\$898.38</b>

### Conclusion

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlords a **Monetary Order** in the amount of **\$898.38** as outlined above. The Landlords are provided with this Order in the above terms and the Tenants must be served with 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.

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 29, 2019

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Residential Tenancy Branch