



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FFL, MNDCL-S

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for money owed or compensation for damage or loss under the Act, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

### Issue to be Decided

Is the landlord entitled to a monetary award for loss arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background, Evidence

The landlord's testimony is as follows. The tenancy began on February 1, 2018 and ended on December 1, 2018. The tenants were obligated to pay \$1300.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$350.00 security deposit and a \$650.00 pet deposit. Written condition inspection reports were conducted at move in and move out. Both parties agreed that much of the deposit has been returned and that the landlord presently holds \$383.20. The landlord seeks to retain that

amount for carpet cleaning, general suite cleaning, and cleaning supplies. The landlord testified that the unit was in “astonishingly bad” condition at move out and that many items were not cleaned well enough or properly. The landlord testified that the odor in the unit was “mind blowing” bad.

The landlord testified that the tenant was allowed to have one dog as per their tenancy agreement, but the tenant took on another dog and her 9 puppies. The landlord testified that the tenant was prepared to pay for a new floor but he was trying to save her money and wanted to try to give it a deep clean again without the need to repair the floor. The landlord testified that he didn’t understand why the tenant would be challenging him on a claim of “four hundred bucks” when it could have been substantially more. The landlord seeks the \$383.20 plus the recovery of the \$100.00 filing fee.

The tenant gave the following testimony. The tenant disputes the landlords claim. The tenant testified that she left the unit reasonably clean and that the smell was there prior to her moving in. The tenant testified that she feels she has met her obligations as a tenant and requests the return of the remaining \$383.20.

### Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the landlords claim and my findings around each are set out below.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. **In order to claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof.** The claimant must provide **sufficient evidence of the following four factors**; the existence of the damage/loss, that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party, the applicant must also show that they followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed, and that if that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

The landlord provided extensive documentation to support his claim, including the move out condition inspection report. Although some parts of the condition inspection report noted that the condition was good, there was notations signed off by both parties which noted some deficiencies and that some follow up may be required. I find it reasonable that the odor emanated several days after the initial carpet cleaning but wasn’t noticed at the time of the inspection. In addition, the tenant was non-apologetic for knowingly and willfully taking on an additional 10 dogs into the unit knowing full well that she was not entitled to and was in breach of a material term of their tenancy agreement. I also find that the tenant was clearly hoping to avoid her responsibilities for additional

cleaning because of the extra dogs. The tenant stated that “it’s easier to ask for forgiveness than for permission”. I find that the landlord has provided sufficient evidence on a balance of probabilities; that the unit was not left in a reasonably clean condition and that the tenant is responsible for the additional costs to clean the unit. The landlord is entitled to \$383.20. The landlord is also entitled to the recovery of the \$100.00 filing fee.

### Conclusion

The landlord has established a claim for \$483.20. I order that the landlord retain the \$383.20 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$100.00. This order may be filed in the Small Claims 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 30, 2019

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Residential Tenancy Branch