



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNDC, MNSD, FF

### Introduction

On May 6, 2019, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking money owed or compensation for damage or loss; a monetary order for unpaid rent; a monetary order for damage or repairs; and to keep the security deposit.

The matter was set for a conference call hearing. The Landlords and Tenants attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The evidence was reviewed and confirmed received by each party. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

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 to recover unpaid rent?
- Is the Landlord entitled to other compensation for damage or loss?
- Can the Landlord keep the security deposit towards the claims?
- Is the Landlord entitled to recover the cost of the filing fee?

### Background and Evidence

The Landlord testified that the tenancy began on August 1, 2018, as an eight month fixed term tenancy fixed term tenancy ending on April 30, 2019. The Tenant testified that the tenancy began on August 23, 2018, as an eight month fixed term tenancy fixed

term tenancy ending on April 23, 2019. Both parties testified that rent in the amount of \$1,525.00 was to be paid to the Landlord by the 23rd day of each month. The Tenants paid the Landlord a security deposit of \$763.00.

The Landlord provided a copy of the tenancy agreement. The tenancy agreement provides that the tenancy starts on August 23, 2018, for an eight month fixed term tenancy ending on April 30, 2019.

The parties agreed that the tenancy ended when the Tenants moved out on August 23, 2019.

The Landlord is seeking compensation as follows:

Loss of Rent for 8 days	\$406.67
Cleaning Costs	\$390.00
Stove Replacement	\$630.01

#### Loss of Rent

The Landlord testified that the Tenants moved out of the rental unit on April 23, 2019 without paying the rent owing under the tenancy agreement for the entire month of April 2019. The Landlord is seeking eight days of rent in the amount of \$406.67.

The Tenant testified that his understanding of the tenancy agreement is that the tenancy would end on April 23, 2019. The Tenant acknowledged that he did sign the tenancy agreement which indicates the tenancy ends on April 30, 2019.

#### Cleaning Costs

The Landlord testified that the rental unit was left unclean at the end of the tenancy. The Landlord testified that the kitchen and bathroom were left unclean. The Landlord testified that she hired someone to clean the rental unit at \$30.00 per hour for 13 hours. The Landlord provided testimony that she conducted a move in inspection and a move out inspection; however, the inspection documents did not contain the information required under section 20 of the Residential Tenancy Regulation.

The Landlord is seeking to recover the cleaning costs in the amount of \$390.00.

In reply, the Tenant testified that he does not agree that the Landlord is entitled to compensation for cleaning costs. He testified that he did not leave the rental unit

unclean. He testified that he cleaned the kitchen including the fridge and cupboards and his roommate cleaned the bathroom. The Tenant testified that there were no marks left on walls and there was no major damage.

### Stove

The Landlord testified that she found that the stove burner and oven were not working at the end of the tenancy. The Landlord testified that the stove was approximately four years old and it was purchased new. The Landlord testified that the Tenants did not inform her that the stove was not working. The Landlord purchased a new stove and is seeking the replacement cost of \$630.01 from the Tenant. The Landlord testified that she does not have any evidence that shows the Tenants intentionally neglected the stove.

In reply, the Tenant testified that one burner and the convection element stopped working approximately two weeks prior to the end of the tenancy. The Tenant testified the stove was older and appeared to be 10 to 15 years old. The Tenant testified that the stove was not mis-used by the Tenants. The Tenant testified that the Landlord informed him at the end of the tenancy that she was keeping the deposit because the stove was left dirty.

### Analysis

Sections 23 and 35 of the Act provides that a Landlord and Tenant together must inspect the condition of the rental unit on the day the Tenant is entitled to possession of the rental unit, and at the end of the tenancy before a new tenant begins to occupy the rental unit. Each section also requires that the Landlord complete the condition inspection report; both the Landlord and Tenant must sign the condition inspection report and the Landlord must give the Tenant a copy of that report in accordance with the regulations.

Section 20 of the Residential Tenancy Regulation requires that a condition inspection report must contain the following information:

- (a) the correct legal names of the landlord, the tenant and, if applicable, the tenant's agent;*
- (b) the address of the rental unit being inspected;*
- (c) the date on which the tenant is entitled to possession of the rental unit;*
- (d) the address for service of the landlord;*
- (e) the date of the condition inspection;*
- (f) a statement of the state of repair and general condition of each room in the rental unit including, but not limited to, the following as applicable:*
  - (i) entry;*

- (ii) *living rooms;*
- (iii) *kitchen;*
- (iv) *dining room or eating area;*
- (v) *stairs;*
- (vi) *halls;*
- (vii) *bathrooms;*
- (viii) *bedrooms;*
- (ix) *storage;*
- (x) *basement or crawl space;*
- (xi) *other rooms;*
- (xii) *exterior, including balcony, patio and yard;*
- (xiii) *garage or parking area;*
- (g) *a statement of the state of repair and general condition of any floor or window coverings, appliances, furniture, fixtures, electrical outlets and electronic connections provided for the exclusive use of the tenant as part of the tenancy agreement;*
- (h) *any other items which the landlord and tenant agree should be included;*
- (i) *a statement identifying any damage or items in need of maintenance or repair;*
- (j) *appropriate space for the tenant to indicate agreement or disagreement with the landlord's assessment of any item of the condition of the rental unit and contents, and any additional comments;*
- (k) *the following statement, to be completed by the tenant:*  
I, .....  
*Tenant's name*  
☐ *agree that this report fairly represents the condition of the rental unit.*  
☐ *do not agree that this report fairly represents the condition of the rental unit, for the following reasons:*  
.....  
.....  
.....  
.....  
*(l) a space for the signature of both the landlord and tenant.*

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

### Loss of Rent

With respect to the Tenants submission that he believed the tenancy would end on April 23, 2019, I assign more weight to the tenancy agreement that the parties signed that provides the tenancy will end on April 30, 2019. I find that the Tenants are required to pay the rent until April 30, 2019.

I award the Landlord the amount of \$406.67 for eight days of rent.

### Cleaning Costs

I find that the Landlord did not conduct a move in inspection and move out inspection in accordance with the Act and Regulations. The Landlord does not have reliable

evidence of the state of repair and condition of the rental unit at the start and end of the tenancy. In addition, the Landlord did not provide any documentary evidence of photographs to show that the rental unit was left unclean.

The burden of proof rests with the person making a claim. When parties provide testimony that is not in agreement, the applicant must provide additional evidence to substantiate their claim.

I find that the Landlord provided insufficient evidence to prove the claim. The Landlord's claim to recover cleaning costs is dismissed.

#### Stove Cost

A Landlord is responsible for repairs to appliances provided under the tenancy agreement unless the damage was caused by the deliberate actions or neglect of the Tenant. Appliances sometimes break down from normal use. There is insufficient evidence from the Landlord to prove that the stove stopped working due to deliberate actions or neglect by the Tenants.

I find that the Landlord provided insufficient evidence to prove that the Tenants are responsible for damaging the stove. The Landlord's claim to recover the purchase cost of a new stove is dismissed.

#### Filing Fee

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Landlord was partially successful with her claims, 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 monetary claim of \$506.67 comprised of \$406.67 for April 2019, rent and the \$100.00 fee paid by the Landlord for this hearing.

I authorize the Landlord to keep the amount of \$506.67 from the security deposit of \$763.000 that she is holding.

After deducting the Landlords award of \$506.67 from the security deposit of \$763.00, I order the Landlord to return the balance of \$256.33 to the Tenant.

I grant the Tenant a monetary order in the amount of \$256.33. 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 Tenant is responsible under the tenancy agreement to pay the rent for the entire month of April 2019. The Landlord is awarded \$406.67 for 8 days of unpaid rent.

The Landlord's claims for cleaning costs and the purchase cost of a stove are not successful and are dismissed.

The Landlord has established a monetary claim in the amount of \$506.67. I order that the Landlord can keep the amount of \$506.67 from the security deposit. I order the Landlord to return the balance of \$256.33 to the Tenant.

I grant the Tenant a monetary order in the amount of \$256.33.

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: August 14, 2019

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Residential Tenancy Branch