



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes                      MND-S, FF

### Introduction

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

- a monetary order for damage to the rental unit pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided testimony. Both parties confirmed the landlord served the tenant with the notice of hearing package in person. Both parties confirmed the tenant served her documentary evidence package in person to the landlord on October 17, 2019. Neither party raised any service issues. I accept the undisputed evidence of both parties and find that both parties have been deemed served as per section 90 of the Act with the notice of hearing package and the submitted documentary evidence.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage and recover of the filing fee?  
Is the landlord entitled to retain all or part of the security deposit?

### Background and Evidence

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 / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord seeks a monetary claim of \$483.25 which consists of:

\$216.00	Cleaning, 12 hours at \$18/hr.
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\$150.00	Rug Cleaning
\$70.00	Door Repairs
\$47.25	Stain Removal

The landlord claims that the tenant vacated the rental unit leaving it dirty and damaged, requiring cleaning and repairs. The landlord claims that a dark blue/black stain (splatter) was left on part of the carpet requiring stain removal. The landlord also claims that the unit was left dirty requiring 12 hours of cleaning. The landlord stated that her employee/witness recorded in excess of 12 hours for cleaning the unit. The landlord's witness stated that he provided a detailed summary of all work performed for the unit to the landlord, but the landlord was not aware of this summary. The landlord stated that rug cleaning is a requirement as part of the signed tenancy agreement that is set at \$150.00 and claims that the rug was left dirty requiring cleaning. The landlord had to repair a metal door that was badly damaged (chipped) that had to be filled, sanded and painted at a cost of \$70.00. The landlord stated that the scuff marked areas on the walls were cleaned and are now free of marks in these areas after being cleaned.

The tenant disputes the landlord's claims arguing that although some of the unit was not cleaned (window and door tracks) that the tenant did clean the carpets, cabinets and walls, etc. The tenant also argues that the carpet stains were noted as part of the original condition inspection report for the move-in that were pre-existing prior to her moving in. The tenant also argues that the multiple photographs submitted by the landlord in her documentary evidence submission are duplicates of other photographs taken by the landlord in the same package. The tenant also argued that scuff marks are not dirt and is normal wear and tear. The tenant has submitted in support of her arguments 33 photographs of the rental unit taken at the end of tenancy.

The landlord has submitted in support of these claims:

- Copy of Signed Tenancy Agreement dated January 31, 2013
- Copy of Addendum to Tenancy Agreement dated January 31, 2013
- Copy of Invoice dated July 15, 2019, re: carpet stain
- Copy of completed condition inspection report for move-in
- Copy of condition inspection report for the move-out signed only by the landlord
- Copies of 52 photographs of the rental unit at the end of tenancy

### Analysis

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 prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must

then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

I accept the evidence of both parties and find on a balance of probabilities that the landlord has established a claim for damages. Although the tenant has submitted 33 photographs of the rental unit in contrast to the landlord's claims, I find that the photographs do not provide a clear comparison of the rental unit when compared with the landlord's 52 photographs which details the landlord's claims for damage and cleaning. I find that the landlord's photographs in conjunction with the incomplete condition inspection report are sufficient to satisfy me that the rental unit was left dirty and damaged as claimed by the landlord. Some of the tenant's photographs corroborate the landlord's claims of the unit being left dirty requiring cleaning (toilet bowl, dirty oven, chipped paint on doors and door edges, chipped drywall on wall corners, dirty window tracks, scuffs on shelves. This is also confirmed by the tenant's direct testimony that the windows and sliding door tracks were left dirty. I note that the photographs of the landlord on the condition on the stove top show "extreme" dirt, debris and rust underneath the stove top canopy. The landlord's witness provided a detailed description of cleaning and repairs to the rental unit noting that a detailed summary was given to the landlord for his hours of work in the unit although this was not presented by the landlord. On this basis, I find that the landlord has established a claim for cleaning of \$216.00.

On the landlord's claim for rug cleaning of \$150.00, I find that the landlord has established a claim. The landlord has referred to an addendum to the signed tenancy agreement in which if the carpet in the unit is left dirty a charge of \$150.00 would be imposed. Although the tenant has argued and referred to photographs submitted in contrast to the landlord's claims, I find that the photographs submitted do not provide a clear comparison of the rental unit carpet when shown against the photographs provided by the landlord. I note for the record that the photographs referred to by the landlord are of such poor quality that some issues were questionable, but that I found sufficient to satisfy me on a balance of probabilities that the carpet was left dirty requiring cleaning.

The landlord's claim of \$70.00 for door repairs is dismissed. Although the landlord claims that the door damage was caused by the tenant, it was not noted in the landlord's self completed condition inspection report for the move-out, the landlord relies solely on the photographs. I note that the landlord has failed to provide sufficient evidence of any costs/expenses incurred for the repair of the metal door. The tenant also argued that the chips on the door were pre-existing and that the paint had chipped due to normal wear and tear. The landlord noted that she did not submit any supporting evidence of material expenses used in repairing the door. On this basis, I find on a balance of probabilities that this portion of the landlord's claim has failed.

On the landlord's claim for stain removal, I find that the landlord has provided sufficient evidence of blue/black splatter stain in the carpet which the landlord had removed at a cost of \$47.25 as

per the invoice. Although the tenant argues that this stain was pre-existing to the tenancy, I note as claimed by the landlord that the details of the condition inspection report was detailed sufficiently that "orange stains" were present. I find that it would be highly unlikely that other stains "blue/black" would be omitted as a notation in the condition inspection report for the move-in. On this basis, I find that the landlord has been successful for this portion of the claim.

The landlord has established a total monetary claim of \$413.25. The landlord is also entitled to recovery of the \$100.00 filing fee. I authorize the landlord to retain the \$425.00 security deposit in partial satisfaction of this claim.

### Conclusion

The landlord is granted a monetary order for \$88.25.

This order must be served upon the tenant. Should the tenant fail to comply with this order, the 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: November 12, 2019

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Residential Tenancy Branch