



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNDC, MNSD, FF

### Introduction

On July 15, 2019, the Landlord submitted an Application for Dispute Resolution for a monetary order for damage to the unit; for money owed or compensation for damage or loss; to keep the security deposit; and to recover the cost of the filing fee.

The matter was scheduled as a teleconference hearing. The Landlord attended the hearing; however, the Tenant did not. The Landlord testified that the Tenant was served with the Notice of Dispute Resolution Proceeding documents using Canada Post registered mail sent on July 19, 2019. The Landlord testified that the registered mail was picked up by the Tenant. The Landlord provided the registered mail tracking information as proof of service. I find that the Tenant was served with notice of the hearing in accordance with sections 89 and 90 of the Act.

The Landlord provided affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions at 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 compensation for damage to the unit?
- Is the Landlord entitled to a monetary order for money owed or damage or loss?
- Is the Landlord entitled to keep the security deposit in partial satisfaction of his claims?

### Background and Evidence

The Landlord testified that the tenancy began on January 1, 2017 as a one-year fixed term tenancy that continued thereafter on a month to month basis. The Tenant was to pay the Landlord monthly rent in the amount of \$1,550.00. The Tenant paid the Landlord a security deposit of \$775.00.

The Landlord testified that the Tenant moved out of the rental unit on June 29, 2019.

The Landlord is requesting compensation for the following items:

Front Door Fob	\$200.00
Blinds	\$426.72
Carpet Replacement	\$840.00
Light Bulbs	\$35.68
Loss of July Rent	\$1550.00

### Front Door Fob

The Landlord testified that the Tenant failed to return a key fob for the main entrance to the building. The Landlord testified that he did not order a new fob and the Landlord did not provide any documentary evidence to prove the replacement cost of a fob.

### Blinds

The Landlord is seeking compensation in the amount of \$426.72. The Landlord testified that the three blinds in the rental unit were damaged by the Tenant and needed to be replaced. The Landlord replaced the blinds. The Landlord provided four photographs showing damage to the blinds. The Landlord provided a receipt for the purchase of three replacement blinds. The Landlord provided a copy of a March 2, 2019 text message from the Tenant which indicates the Tenant will be taking care of the damage to the blinds by replacing the blinds.

### Carpet Replacement

The Landlord is seeking compensation in the amount of \$840.00 for the replacement cost of a carpet. The Landlord testified that the Tenant is responsible for damage to the carpet. The Landlord testified that the carpet is stained and an area by the transition strip is chewed. The Landlord testified that the carpet is two years old. The Landlord testified that he was unable to remove stains in the carpet. The Landlord has not replaced the carpet. The Landlord patched a damaged / chewed area and re-rented the unit to a new tenant.

The Landlord provided photographs of the damaged carpet. The photographs show several small stains on a carpet and a small area of damage approximately 3 inches by two inches near a transition area. The Landlord provided an email document dated July 12, 2019 quote for the cost, removal and disposal of the carpet in the amount of \$750.00.

#### Light Bulbs

The Landlord is seeking \$35.68 for the cost to purchase and replace burned out light bulbs at the end of the tenancy.

#### Loss of August Rent \$1,550.00

The Landlord is seeking to recover a loss of rent for the month of July 2019 because the rental unit was left dirty and the Landlord was not able to re-rent the unit for July. The Landlord testified that he did not start advertising the unit when he received the Tenants notice to end tenancy he received on May 28, 2019. He testified that he did not know the condition of the unit until he saw the condition of the rental unit on June 29, 2019. The Landlord provided photographs of the condition of the rental unit at the end of the tenancy.

#### Security Deposit

The Landlord testified that he received the Tenants forwarding address on July 15, 2019. The Landlord is seeking to keep the security deposit of \$775.00 in partial satisfaction of his claims.

#### Analysis

The Residential Tenancy Policy Guideline #1 Landlord & Tenant – Responsibility for Residential Premises states:

*a tenant is generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest.*

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.*

*An arbitrator may also award compensation in situations where establishing the value of the damage or loss is not as straightforward:*

*“Nominal damages” are a minimal award. Nominal damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right.*

*A party seeking compensation should present compelling evidence of the value of the damage or loss in question.*

Based on all the above, the evidence and testimony of the Landlord, and on a balance of probabilities, I find as follows:

Front Door Fob

The Landlord has provided insufficient evidence of the actual amount required to compensate for the claimed loss. The Landlord did not provide evidence to establish the cost of a front door fob and did not pay for a replacement fob. The Landlord's claim for \$200.00 is dismissed.

### Blinds

The Landlord provided testimony and photographic evidence showing that the blinds were damaged. I find that the tenant is responsible for the damage to the blinds and must compensate the Landlord for the replacement costs.

I grant the Landlord the amount of \$426.72 for the replacement of the blinds.

### Carpet Replacement

I find that the Tenant is responsible for the staining and damage to a small area of the carpet. I find that the evidence of damage does not establish that the carpet needed to be replaced. The Landlord was able to repair the carpet and has re-rented the unit. The Landlord has provided insufficient evidence that he has suffered a loss of \$840.00.

I find that there has been no significant loss or no significant loss has been proven, but it has been proven that the Tenant caused some damage. In the circumstances, I award the Landlord a nominal award of \$100.00.

### Light Bulbs

I find that the tenant is responsible to replace burned out lights at the end of the tenancy. I accept the Landlords testimony that light bulbs were burned out and I find the Landlords claim for \$35.68 is reasonable.

I award the Landlord the amount of \$35.68.

### Loss of July 2019 Rent

I have considered the Landlord's testimony and reviewed the Landlord's photographic evidence of the condition and state of repair of the unit at the end of the tenancy.

The Landlord's testimony that he did not advertise the unit prior to seeing the condition of the rental unit on June 29, 2019. The Landlord submits that the condition of the rental unit prevented him from renting the unit for the month of July 2019.

I find that the Landlord has provided insufficient evidence that the condition of the rental unit prevented him from renting the unit out for the entire month of July 2019. The Tenant moved out on June 29, 2019. While I accept the Landlord's evidence that the Tenant left areas of the rental unit unclean, I find that the evidence does not establish that the unit needed more than a day of cleaning. I find that it is more likely than not that the Landlord's inability to re-rent the unit for July 2019 was impacted by his failure to advertise the rental unit.

The Landlords claim for a loss of July 2019 rent is dismissed.

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 his claims, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

The Landlord has established a monetary claim in the amount of \$662.40. I authorize the Landlord to retain the amount of \$662.40 from the security deposit of \$775.00. I order the Landlord to repay the amount of \$112.60 to the Tenant.

I grant the Tenant a monetary order in the amount of \$112.60. The monetary order must be served on the Landlord and may be enforced in the Provincial Court.

### Conclusion

I find that the Tenant owes the Landlord the amount of \$662.40 for damage and repairs to the rental unit.

I authorize the Landlord to retain the amount of \$662.40 from the security deposit of \$775.00. I order the Landlord to repay the balance of \$112.60 to the Tenant.

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 13, 2019

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Residential Tenancy Branch