



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNRL-S, MNDCL-S, MNDL-S

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Landlord under the *Residential Tenancy Act* (the “Act”), seeking:

- Compensation for monetary loss or other money owed;
- Recovery of unpaid rent;
- Compensation for damage caused by the Tenants, their pets or their guests to the rental unit; and
- Authorization to withhold the Tenants’ security deposit towards money owed.

The hearing was convened by telephone conference call and was attended by the Landlord and both Tenants, all of whom provided affirmed testimony. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The Tenants acknowledged receipt of the Application and Notice of Hearing and although the Tenants raised concerns regarding the manner in which they were served, they acknowledged receipt of the Landlord’s documentary evidence and having sufficient time to consider and respond to it. As a result, they consented to its acceptance and consideration by me in this matter. The Landlord also acknowledged receipt of the Tenants’ documentary evidence and raised no concerns with regards to its acceptance or consideration.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter; however, I refer only to the relevant facts, evidence and issues in this decision.

At the request of the parties, copies of the decision and any orders issued in their favor will be emailed to them at the email addresses provided in the hearing and the Application.

### Preliminary Matters

Although the parties engaged in settlement discussions during the hearing, ultimately a settlement agreement could not be reached between them. As a result, I proceeded with the hearing and rendered a decision in relation to this matter under the authority delegated to me by the Director of the Residential Tenancy Branch (the “Branch”) under Section 9.1(1) of the *Act*.

### Issue(s) to be Decided

Is the Landlord entitled to compensation for monetary loss or other money owed?

Is the Landlord entitled to recover unpaid rent?

Is the Landlord entitled to compensation for damage caused by the Tenants, their pets or their guests to the rental unit?

Is the Landlord entitled to withhold the Tenants’ security deposit towards money owed?

### Background and Evidence

The parties agreed that there is a verbal tenancy agreement in place, that the month to month tenancy began between June 5, 2019 - June 9, 2019, that rent in the amount of \$1,500.00 is due on the first day of each month, and that the Tenants paid a security deposit in the amount of \$750.00 on June 2, 2019, which the Landlord still holds.

The parties agreed that the Tenants gave written notice on November 10, 2019, to end the tenancy effective December 10, 2019, but ultimately vacated the rental unit on November 27, 2019 without prior notice to the Landlord. They also agreed to that no rent was paid for December 2019, and that the Tenants’ forwarding address was received by the Landlord via text message on December 9, 2019.

The Landlord sought \$1,500.00 in rent for December 2019, as they stated that the Tenants did not give proper notice under the *Act* and the rental unit could not be re-rented until January 1, 2020. The Tenants stated that the Landlord had ample time to re-rent the unit, and therefore they should not be responsible for this amount.

The parties disputed whether a condition inspection was completed at the start of the tenancy in compliance with the *Act*. In any event, the Landlord acknowledged that a

condition inspection report was never properly completed, signed by the Tenants, or provided to them in accordance with the *Act* and regulation, despite their intention to do so. The parties also agreed that no move-out condition inspection was completed together, although they disputed why. The Tenants stated that the Landlord never contacted them after they provided their written notice in order to schedule one and the Landlord stated that the Tenants unexpectedly moved out early without notice, preventing them from scheduling or performing a move-out inspection with the Tenants as required. As a result, the Landlord stated that a move-out inspection and report were completed in the Tenants absence as they had abandoned the rental unit.

The Landlord stated that the Tenants did not leave the rental unit reasonably clean and undamaged, except for wear and tear, as required by the *Act*, and therefore sought \$1,002.08 in cleaning, repair and labour costs.

The Landlord stated that the Tenants scratched the floor of the rental unit by placing a kitty-litter box directly on the wood flooring and failing to use proper padding on the feet of the couch. The Landlord submitted photographs and a quote for floor repairs in support of their claim and sought \$626.25 for the cost of repairing the floors. The Tenants denied that they caused any floor damage, that they placed a kitty-litter box directly on wood flooring or that they failed to properly pad the feet of their couch to protect the flooring beneath the couch. The Tenants stated that the kitty-litter box was always kept on the tile floor in the laundry room and that their couch had foot pads and was placed on an area rug. The Tenants also called the Landlord's photographic evidence into question, stating that the photographs are undated. The Tenants submitted photographs and several witness statements in support of their testimony.

The parties then disputed the placement of the kitty-litter box in the rental unit, what the kitty-litter box looked like, and whether it was even present when the Landlord inspected the rental unit. Although the Tenants stated that they had a witness who could corroborate their testimony and were provided with an opportunity to call their witness during the hearing, they declined to call their witness and instead chose to rely on the documentary evidence already before me for consideration.

The Landlord stated that although the Tenants resided in the rental unit for less than a year, they had a cat contrary to their tenancy agreement and stained the carpet in several places. As a result, the Landlord stated that the carpets needed to be cleaned and sought \$126.00 for this cost. The Landlord submitted an invoice for the carpet cleaning for my review. The Tenants did not dispute that the carpet was stained by them

during their tenancy and acknowledged having a cat in the rental unit. They also did not dispute the Landlord's entitlement to reimbursement for this cost.

The Landlord stated that the rental unit was not entirely clean at the end of the tenancy and therefore required three hours of cleaning at a cost of \$110.25. Although the Landlord acknowledged that the rental unit was not entirely unclean, they stated that the Tenants had missed cleaning several areas, such as the floor, the inside of some cabinetry and several areas in the kitchen. In support of this testimony the Landlord pointed me to their photographic evidence and an invoice for cleaning costs incurred. The Tenants denied that the rental unit required any cleaning and stated that they left it reasonably clean at the end of the tenancy. They also called the Landlord's documentary evidence into question, stating that they do not believe that a notation on the cleaning invoice relating to the state of the rental unit is authentic and stated that the Landlord's photographs are undated. In support of their testimony, the Tenants pointed to their witness statements and photographic evidence.

The Landlord also sought \$96.25 for exterior cleaning and garbage removal, as they stated that the Tenants left garbage outside and in the firepit, which needed to be removed and disposed of. In support of their testimony the Landlord pointed me to their photographic evidence and a receipt. The Tenants disputed that any garbage was left outside belonged to them and argued that this was left there by the Landlord. The Tenants also denied that there was anything in the fire pit other than a small amount of burning material and claimed that an improvised golf-club fire poker actually belonged to the Landlord.

The Landlord stated that the Tenants damaged and removed the smoke detector in the rental unit and sought \$31.44 for its replacement. The Landlord submitted a receipt for my review in support of their testimony that the smoke detector was damaged and subsequently replaced. Although the Tenants acknowledged removing the smoke detector from the ceiling to replace the battery and failing to properly reaffix it, they denied that it was damaged.

The Landlord stated that the Tenants failed to replace burnt out light bulbs as required or a humidistat battery and sought \$66.89 for the cost of replacing the light bulbs and battery. The Tenants denied failing to replace burnt out light bulbs and stated that they had no knowledge or use of the humidistat and as a result, they argue that they should not be responsible for these costs.

In their Application the Landlord also sought \$12.00 in registered mail and postage fees and \$255.00 in labour, charged at \$85.00 per hour, for the time taken to purchase and install items, such as the light bulbs, organize trades and file the Application.

### Analysis

As the parties agreed that rent is due on the first day of each month, and that the tenancy is periodic in nature (month to month), I find that the earliest date by which the Tenants could have ended their tenancy by giving written notice on November 10, 2019, was December 31, 2020, pursuant to section 45 (1) of the *Act*. I therefore find that the Tenants were responsible to pay rent in full for December 2019, as required under their tenancy agreement and section 26 of the *Act*, regardless of whether or not they resided there. As the parties agreed in the hearing that no rent was paid for December 2019, I therefore award the Landlord \$1,500.00 for unpaid December 2019 rent.

From the testimony provided in the hearing, it is clear to me that the Landlord did not comply with the requirements under section 35 of the *Act* with regards to the move-in condition inspection and report, and that they therefore extinguished their rights to claim against the Tenants security deposit for damage to the rental unit. However, the Landlord sought compensation for more than just damage to the rental unit in their Application, such as cleaning costs and lost rent. Based on the above and given that the Landlord's Application was filed within 15 days after the Tenants' forwarding address was received on December 9, 2019, I therefore find that the Application was filed in compliance with section 38 (1) of the *Act*, and that the Landlord was entitled to retain the Tenant's security deposit pending the outcome of the Application.

Based on the testimony of the parties in the hearing and the documentary evidence before me, I find that the Tenants abandoned the rental unit when they vacated the rental unit 13 days in advance of the end date stipulated in their written notice to end tenancy and without any advance notice to the Landlord. Section 35 (5) (b) of the *Act* states that a landlord may conduct the inspection and complete and sign the report without the tenant if the tenant has abandoned the rental unit. Based on the above, I find that the Landlord was entitled to inspect the rental unit and complete the move-out condition inspection report without the Tenants and without the need to offer two opportunities for the move-out condition inspection. Further to this, section 21 of the regulation states that in dispute resolution proceedings, a condition inspection report completed in accordance with this Part is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

Section 37 of the *Act* states that when a tenant vacates a rental unit, the tenant must leave the rental unit and the residential premises reasonably clean, and undamaged except for reasonable wear and tear. Although the parties provided conflicting testimony as to the condition of the rental unit and the residential premises as a whole, and opposing documentary evidence, such as photographs, witness statements, and invoices, ultimately I am satisfied, on a balance of probabilities, that the rental unit and the exterior portions of the residential premises to which the Tenants had access and use, were not left reasonably clean by the Tenants, as shown in the Landlord's photographic evidence, the move-out condition inspection report, and the cleaning invoice, despite the efforts made by the Tenants to clean it. I am also not satisfied by the Tenants that their documentary evidence constitutes a preponderance of evidence contrary to the condition inspection report and I therefore prefer the move-out condition inspection report in terms of assessing the full condition of the rental unit at the end of the tenancy.

Of particular importance in making the above findings I note that even in the Tenants' own photographs, I can see that the shower enclosure was not cleaned, that portions of the kitchen floor are dirty, and that the oven is not clean. Further to this, the professional cleaner hired by the Landlord commented on the invoice that the rental unit was not left in a reasonable state by the Tenants at the end of the tenancy. As a result, I award the Landlord the \$110.25 in interior cleaning costs and the \$96.25 in exterior cleaning costs sought.

Residential Tenancy Policy Guideline (the "Policy Guideline") #1 states that tenants may be expected to steam clean or shampoo the carpets at the end of a tenancy, regardless of the length of tenancy, if they, or another occupant, has had pets which were not caged or have deliberately or carelessly stained the carpet. As the Tenants did not dispute staining the carpet and acknowledged having a pet, I also award the Landlord the \$126.00 sought for carpet cleaning.

Policy Guideline #1 states that tenants are responsible for replacing light bulbs in their rental units during the tenancy and I accept the Landlord's testimony that light bulbs and batteries for a humidistat needed to be replaced at the end of the tenancy. I therefore award the Landlord \$66.89 for this portion of their claim, the amounts shown on the receipts for purchase of the humidistat battery and light bulbs.

Policy Guideline #1 also states that Landlords are responsible for the maintenance and replacement of fire alarms. Although the Landlord stated that the Tenants broke the

smoke detector, the Tenants denied this claim. Based on the Tenants' denial and the requirements for landlords to repair and maintain fire alarms in the rental unit, I therefore dismiss the Landlord's claim for reimbursement of the costs incurred for replacing the smoke detector in the rental unit.

Although the Landlord sought \$626.25 in flooring repair costs, the Tenants disputed damaging the floors in any way. As there was agreement that there was no proper move-in condition inspection report completed and signed by the parties at the start of the tenancy, and the Landlord has not submitted any other documentary evidence which I find satisfies me that the floors were undamaged prior to the start of the tenancy, I find that the Landlord has therefore failed to satisfy me that any damage to the flooring was indeed caused by the Tenants. Further to this, I can see from copies of the advertisement of the rental unit that there was a dog in the rental unit at one point prior to this tenancy and I therefore find it probable, if not likely, that the flooring damage referred to by the Landlord in the hearing pre-existed the start of this tenancy as a result of previous pets or occupants of the rental unit. As a result, I dismiss the Landlords claim for \$626.25 in flooring repair costs without leave to reapply.

In their Application the Landlord also sought reimbursement of registered mail and postage fee's; however, the *Act* allows for several methods of service, and I therefore do not find that the Tenants should be responsible for reimbursing the Landlord for their chosen method of service and I dismiss this portion of the Landlord's claim without leave to reapply. I also dismiss the Landlord's claim for \$255.00 in labour costs incurred to arrange for trades, obtain replacement items and file their Application without leave to reapply as they have not submitted evidence that satisfies me on a balance of probabilities that they actually incurred these costs. Further to this, I find that \$85.00 per hour represents more than a reasonable hourly wage to complete these tasks and I do not find the Landlord's arguments that they had to complete these tasks during their working hours reasonable, as these tasks could easily have been completed during non-working hours.

As the Landlord was successful on several of their claims, I therefore grant them recovery of the \$100.00 filing fee pursuant to section 72 of the *Act*. I also authorise the Landlord to retain the Tenants' \$750.00 security deposit in partial repayment of rent owed.

Based on the above and pursuant to section 67 of the *Act*, the Landlord is therefore entitled to a Monetary Order in the amount of \$1,249.39; \$1,999.39 in compensation

awarded, less the \$750.00 security deposit retained. The Tenants are therefore ordered to pay the Landlord this amount.

Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlord a Monetary Order in the amount of **\$1,249.39**. The Landlord is provided with this Order in the above terms and the Tenants must be served with this Order as soon as possible. Should the Tenants 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: June 24, 2020

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Residential Tenancy Branch