



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** FFL, MNRL, MNDCL, MNDL-S

### **Introduction**

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

- a monetary order for unpaid rent, utilities, and compensation for monetary loss or money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 1:50 p.m. in order to enable the tenants to call into this teleconference hearing scheduled for 1:30 p.m. The landlords attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlords and I were the only ones who had called into this teleconference.

The landlords testified that the tenants were served with the landlords' application for dispute resolution hearing package on January 6, 2020 by way of registered mail. The landlords provided the tracking information and proof of delivery in their evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenants deemed served with the landlords' application package on January 11, 2020, five days after its registered mailing.

### **Issue(s) to be Decided**

Are the landlords entitled to monetary compensation for monetary losses or money owed?

Are the landlords entitled to recover the filing fee for this application from the tenants?

### **Background and Evidence**

This month-to-month tenancy began on April 1, 2015, and ended on September 30, 2019. Monthly rent was set at \$1,755.07, payable on the first day of each month. The landlords collected a security deposit of \$800.00 which the landlords still hold.

The landlords are requesting monetary compensation as follows:

Unpaid Rent for September 2019	\$1,755.07
Unpaid Utilities up to September 2019	189.75
Loss of Rental Income-October & November 2019	3,510.14
Damage to floor, carpet repair & replacement	2,214.43
Cleaning	378.00
Blinds	330.40
Damage to living room ceiling	375.90
Filing Fee	100.00
<b>Total Monetary Award Requested</b>	<b>\$8,853.69</b>

The landlords testified that the tenants moved out on September 30, 2019, without paying the September 2019 rent. The landlords are also seeking a monetary order for unpaid utilities for this tenancy.

The landlords testified that the tenants failed to leave the home in reasonably clean and undamaged condition. The landlords submitted documentary evidence, including an inspection report, invoices and receipts, as well as photos in support of their claim. The landlords testified that there was significant damage to the underlay and subfloor, and damage to the carpet from a cat that they did not authorize. The landlords submit that the damage was substantial, and exceeded normal wear and tear. The landlords testified that the home was built in the 1980s, but the carpet was replaced in 2007, while the flooring was replaced in 2003 or 2004.

The landlords testified that the tenants removed the blinds from the sliding door, and did not replace them. Instead the tenants had put a bedding sheet up in its place. The landlords testified that the textured ceiling was heavily damaged and marked up with some object.

The landlords submitted photos to show that the home was not left in reasonably clean condition. The landlords submitted photos that show all the items the tenants left behind when they had moved out, as well as the condition of the home.

The landlords testified that due to the state of the damage, the landlords were unable to re-rent the home until December 2019. The landlords are seeking compensation for loss of rental income for October and November 2019.

### **Analysis**

**Section 26** of the Act, in part, states as follows:

#### ***Rules about payment and non-payment of rent***

**26 (1)** *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

I find that the tenants were obligated to pay the rent and utilities as per the tenancy agreement and the *Act*. I find the landlord provided undisputed evidence to support that the tenants have not paid the outstanding rent and utilities for this tenancy, nor did they have an order from an Arbitrator allowing them to deduct all or a portion of the rent or utilities, nor do I find that the tenants had a right under the *Act* to deduct or withhold all or portion of the rent or utilities. Accordingly, I allow the landlords a monetary order for the unpaid rent and utilities for September 2019.

Section 37(2)(a) of the *Act* stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged condition except for reasonable wear and tear.

I find that the tenants had failed to replace the missing blinds, and had caused damage to the ceiling. Furthermore, I find that the tenants had failed to leave the home in reasonably clean condition. Accordingly, I allow the landlords to recover the cost of cleaning, as well as repairing the damaged ceiling.

Although the landlords testified that they had discovered that the subflooring was damaged by the tenants, I am not satisfied that the landlords provided sufficient

evidence to support that the damage was caused by the tenants. Accordingly, I dismiss the landlords' monetary claim for damage to the subflooring without leave to reapply.

Section 40 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. As per the policy, the useful life of carpet is 10 years. As the carpet was last replaced around 2007, the carpet was approximately 12 years old at the end of the tenant. I find that the carpet has exceeded its useful life, and accordingly, this portion of the landlords' monetary claim is dismissed without leave to reapply.

I accept the landlords' sworn testimony that they had suffered a monetary loss of rental income for the months of October and November 2019 due to the tenants' failure to leave the home in clean and undamaged condition. Accordingly, I allow the landlords' monetary claim for loss of rental income for these two months.

I allow the landlords to recover the filing fee for this application.

The landlords continue to hold the tenants' security deposit of \$800.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain tenants' security deposit in partial satisfaction of the monetary claim.

### **Conclusion**

I issue a Monetary Order in the amount of \$5,839.26 in the landlords' favour as set out in the table below. I allow the landlords to retain the tenants' security deposit in partial satisfaction of their monetary claim.

Unpaid Rent for September 2019	\$1,755.07
Unpaid Utilities up to September 2019	189.75
Loss of Rental Income-October & November 2019	3,510.14
Cleaning	378.00
Blinds	330.40
Damage to living room ceiling	375.90
Filing Fee	100.00
Less Security Deposit Held	-800.00
<b>Total Monetary Award</b>	<b>\$5,839.26</b>

The landlords are provided with this Order in the above terms and the tenant(s) must be served with a copy of this Order as soon as possible. Should the tenant(s) 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.

The remainder of the landlords' application is dismissed without leave to reapply.

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 3, 2020

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Residential Tenancy Branch