



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL, FFL

### Introduction

This hearing was reconvened after the original hearing was commenced and adjourned in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damages to the unit - Section 67; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Parties confirm receipt of each other's evidence.

### Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The following are agreed facts: the tenancy under written agreement started on February 1, 2014 and ended on July 31, 2019. During the last year of the tenancy rent of \$1,750.00 was payable on the first day of each month. The security deposit has been dealt with.

The Landlord states that while a move-in inspection report was completed the Landlord has no copy of this report. The Tenant states that no move-in report was completed by the Landlord during the move-in walkthrough. The Landlord states that while the

Parties started the move-out inspection the Tenant left before it was completed. The Landlord states that the Landlord completed the inspection and report and that a copy of this report is provided as evidence. The Tenant states that it believes it was present for the complete inspection and that no copy of any report was offered to the Tenant for signature. The Tenant also states that it left before the inspection was completed. The Landlord states that at a previous hearing the Tenant gave evidence that it had left during the move-out inspection. The Landlord stated that this evidence is recorded in a Decision dated December 4, 2019.

The Landlord states that the tenancy was ended by the Landlord who served the Tenant with a two month notice to end tenancy for landlord's use with an effective date of July 31, 2019. The Landlord states that the reason stated on this notice was that the Landlord would occupy the unit. The Landlord states that it could not occupy the unit as a result of the damages left to the unit by the Tenant. The Landlord states that the unit had been listed for sale prior to the end of the tenancy and was again listed in late February 2020 after the repairs were completed. The Landlord states that the unit was first shown during the tenancy. The Landlord states that the unit has been sold with occupancy on August 31, 2020. The Tenant states that the Landlord informed the Tenant during the tenancy that the unit was going to be renovated for the sale of the unit.

The Landlord states that the Tenant left the shower heads in both bathrooms damaged as they were loose and leaking water. The Landlord states that the shower heads were new to the building 14 years ago as of today's date. The Landlord claims \$179.19 and \$183.88 as the costs for replacement shower heads. The Landlord states that the shower head damages are noted on the move-out inspection report provided by the Tenant as evidence for this hearing. The Tenant states that it did not damage the shower heads that are at least 14 years old. The Tenant's representative points out the Landlord's home inspection report indicates that in July 2019 the building was described as being 15 years old. The Landlord confirms that the building is currently 16 years old.

The Landlord states that the Tenant left the part of the kitchen countertop around the sink with damage. The Landlord states that mold was growing under the kitchen sink from a damaged garburator that was not reported by the Tenant but was discovered during the home inspection done on July 15, 2019. The Landlord states that as it could not patch the area it had to replace the entire countertop.

The Landlord states that the Tenant left a bathroom countertop with peeling laminate and damaged backsplash. The Landlord states that the damaged area could not be patched and therefore the entire bathroom countertop was replaced. The Landlord claims \$2,840.00 for the replacement costs of both the kitchen and bathroom counter tops. The Landlord states that the counter tops were 15 years old at move-out. The Landlord states that no photos of this damage were provided. The Tenant states that neither the kitchen nor bathroom counter tops were damaged by the Tenant. The Tenant states that there was no damage to the kitchen countertop at move-out and that the bathroom countertop had pre-existing damage at move-in. The Tenant states that the Landlord's photo of the one countertop does not depict any damage. The Tenant argues that the Landlord did not have to replace the bathroom counter due to any damage to the laminate as the Landlord's photos shows a gap between the mirror and the countertop and that this was the reason for the replacement. The Tenant argues that the photo does not show damage to the countertop itself.

The Landlord claims \$276.27 as the costs to replace the kitchen sink and \$105.60 as the costs to replace the bathroom sink. The Landlord states that it has no evidence that the Tenant damaged the sinks.

The Landlord states that the dishwasher was found with glass inside and that there was a leak. The Landlord states that the source of the leak could not be found. The Landlord states that the dishwasher was 15 years old and was taken to the garbage. The Landlord claims \$595.00 for the new dishwasher plus \$149.00 for its installation.

The Landlord states that the Tenants damaged the gas range stove that was 15 years old. It is noted that the inspection report indicates that the ignitor on the stove was not working and recommended repair or replacement. The Landlord claims \$845.00 for its replacement.

The Landlord states that the Tenant left three faucets damaged and claims \$629.97. The Landlord states that the faucets were 15 years old.

#### Renovation Costs

The Landlord states that the unit was not liveable at the end of the tenancy and that it had to be repaired to a liveable state. The Landlord claims a global amount of \$18,500.00 for renovations to the unit. It is noted that while the details of the renovations were set out in an invoice dated December 31, 2019, there was no breakdown of costs for the various jobs detailed. The Landlord states that it does not know the separate costs of the renovations. The Landlord claims the costs of repair, removal and cleaning done for the damages set out below:

The Landlord states that the Tenant left a stained carpet and damaged laminate. The Landlord states that the carpet and laminate were 15 years old. The Landlord gave no oral evidence in relation to the tiles. The Landlord estimates that the useful life of laminate, depending on the quality, would be maybe 15 years. The Tenant states that none of the laminate was damaged by the Tenant's use.

The Landlord states that the Tenant left the walls of the unit stained from smoke and smelling from its pets. The Landlord states that the Tenant also left stained areas on the bathroom ceiling. The Landlord believes the stains were from smoking in the bathroom. The Landlord states that the walls and ceilings were cleaned, sealed and painted. The Landlord states that the unit smelled bad and provides a letter from the realtor noting that persons viewing the unit commented on the terrible smell. The

Landlord states that the walls of the unit had previously been painted just before the onset of the tenancy of February 1, 2014. The Tenant denies that its pets caused any smell in the unit stating that its dog was regularly taken outside, and the cat used its litter box. The Tenant states that it does not smoke and that nobody was allowed to smoke in the unit.

The Landlord states that the baseboards throughout the unit were water damaged. The Landlord states that it does not know how this happened but that it looked like a flood had occurred in the unit. The Tenant states that it did not damage the baseboards and that there had been a leak from the roof of the unit that lasted for over 8 months during which the Tenant had repeatedly informed the Landlord of the problem. The Tenant states that the strata made repairs. The Landlord states that the Tenant informed the Landlord in 2018 of the leak and that the Strata found no leak from the roof. The Landlord states that the Tenant told the Landlord that the water was coming from a steady drip from the fire sprinkler. The Landlord states that while this leak would affect the hallway it would not have affected the rest of the unit. The Landlord states that the Strata did make repairs to the ceiling of the unit and that the baseboards were damaged at that time. The Landlord states that the Tenant had informed the Landlord of a broken hose from the washer or dryer that leaked a bit to the lower unit. The Landlord states that the Tenant informed the Landlord that the Tenant had repaired the broken hose however the Landlord did not inspect that repair.

The Landlord states that mold was found inside the kitchen cabinet and that the mold had penetrated into the drywall. The Landlord states that the cabinet had to be removed and replaced. The Landlord states that the mold was cleaned up. The Landlord states that the Tenant's evidence includes a photo of a pot under the garburator and shows mold. The Landlord states that this photo was taken for the Landlord's home inspection done July 15, 2019. The Tenant states that there was no mold in the unit at the end of the tenancy and that it did nothing to cause any mold growth.

The Landlord states that the bathroom vanity had cigarette burns and was coming apart so had to be removed and replaced. The Tenant states that the bathroom vanity had separated from the mirrored wall and that this was the reason for the Landlord replacing the vanity. The Tenant states that it believes this was caused by something outside the unit as a large fan dryer had been placed in the hallway by the unit and that it was there for a month or two.

The Landlord states that the kitchen countertop laminate had mold that could not be removed. The Landlord states that the bathroom countertop was not damaged by the Tenant.

The Landlord states that the bathtub sealant had to be repaired as it was yellowed and had a strong cigarette smell. The Landlord states that new sealant had been applied for the start of the tenancy. The Tenant states that the sealant was not new at the onset of the tenancy, that the Tenant does not smoke. The Tenant states that at move-in the Landlord informed the Tenant that the previous tenants had smoked and left the unit damaged but that the Landlord had done some painting. The Tenant states that the walls were left clean by the Tenant and that no smoking was allowed inside the unit during the tenancy. The Landlord states that its previous tenants did not smoke in the unit.

The Landlord states that the dishwasher and range had to be removed to the garbage.

The Landlord states that mold had to be cleaned from behind the kitchen cabinet, under the baseboards and under the flooring. The Landlord states that it does not have any photos of the mold in these areas. The Tenant states that it did not cause any mold.

The Landlord states that bird droppings were found inside the windowsill where the Tenant had placed an air conditioner. The Landlord states that pigeons gathered on that outside corner area.

The Landlord states that the Tenant damaged the venetian blinds that were 15 years old.

The Landlord states that there was damage to the drywall but that it does not know where this damage was or what was damaged.

The Landlord states that the master bathroom had ceiling stains from what the Landlord believes was caused by cigarette smoke and that the vent in the bathroom was not working very well. The Landlord states that it was not informed of this damage during the tenancy. The Landlord states that the ceilings were last painted 15 years ago. The Tenant states that it did not cause any damage to any stains on the ceiling.

The Landlord states that all the doors in the unit required cleaning and paint. The Landlord states that the doors were 15 years old. The Landlord states that a door was also damaged by rubbing onto the top of the frame. The Landlord states that it does not believe the Tenant caused this damage and thinks that it may be as a result of the building having shifted or structural problems.

The Landlord states that the washer and dryer had to be removed and then replaced for the replacement of the tile flooring.

The Landlord states that the plumbing fixtures had to be removed and reinstalled for the purposes of the replacement of the cabinets, counter tops and flooring.

The Tenant argues that the Landlord's claims are disingenuous as the work done to the unit were renovations done for the purpose of selling the unit.

### Analysis

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results.

As there is no evidence that the Tenant caused any damage to the kitchen and bathroom sinks, I dismiss this claim.

Residential Tenancy Branch Policy Guideline #40 sets out the useful life of the following building elements:

- Dishwasher - 10 years;
- Stove - 15 years;
- Faucets - 15 years;
- Carpet - 10 years;
- Tiles - 10 years;
- Drywall - 20 years;
- Interior paint - 4 years;
- Sealant - 5 years; and
- Venetian blinds - 10 years.

I consider shower heads to be similar to faucets in terms of useful life and as the shower heads were at the end of their useful life, I find that any costs to deal with these items remain with the Landlord. I dismiss the claim for costs to replace the shower heads. Given the undisputed evidence that the dishwasher, range, faucets and interior paint to the walls, and doors were beyond their useful life, I find that any costs to deal



with these items remain with the Landlord and I dismiss all claims related to these items.

There is no photo of any damage to a kitchen countertop. The move-out report does not set out any damage to this area. Given this evidence and the Tenant's evidence of no damage, I find on a balance of probabilities that the Landlord has not substantiated that the Tenant caused the countertop to require replacement. I therefore dismiss this claim.

While the photo of the bathroom counter top photo shows one very small area of damage, given the Tenant's evidence of pre-existing damage and no move-in condition report, I find on a balance of probabilities that the Landlord has not substantiated that the Tenant caused any damage to the bathroom countertop and I dismiss the claim for its replacement.

#### Renovation costs

Based on the undisputed evidence that the blinds were at least 15 years old I find that there was no longer any useful life left to these items and that the Landlord is therefore responsible for any costs to deal with the blinds.

Given the undisputed age of the bathtub sealant, I find that the sealant only had 5 months of useful life left. Given the inspection report noting the bathtub sealant only to be deteriorated, the Tenant's evidence of not smoking in the unit, and the photo showing no damage to the sealant other than an overall discoloration, I find on a balance of probabilities that the Landlord has not substantiated that the Tenant caused the sealant to be damaged by smoke or that the sealant's useful life was ended or so damaged that it required replacement.

As there is no evidence of the Tenant's damage to any drywall, I find that the Landlord has not substantiated a claim for repairs to the drywall and I dismiss the claim for repair costs.

Given the undisputed evidence that the walls of the unit were last painted at the onset of the tenancy, I find that the life of this paint was past its useful life. The Landlord is therefore responsible for any costs to repaint the unit.

Given the undisputed evidence that the carpets were at least 15 years old at the end of the tenancy I find that the carpets no longer had any useful life left and that Landlord is therefore responsible for any costs to deal with the carpets. Given the Landlord's evidence of the useful life of laminate to be 15 years and the evidence of the laminate being at least that age, I find that the Landlord has not substantiated that the Tenant caused any loss in relation to the laminate. The Landlord is therefore responsible for any costs to deal with the laminate.

Given the photo of the ceiling stain distinctly being around a sprinkler as contained in the inspection report and the evidence that there was a leak from this area, I find on a balance of probabilities that the Landlord has not substantiated that the Tenant caused the damage claimed to the ceiling.

As the Landlord has not substantiated any loss in relation to the replacement of the kitchen and bathroom countertop or the replacement of the dishwasher and range, I find that the Landlord is also not entitled to any costs associated with the removal of these items.

Given the undisputed evidence of the bathroom vanity separating from the wall, the evidence of a long-term leak, and the evidence of possible structural problems causing damage to a door, I find on a balance of probabilities that the Landlord has not

substantiated that the Tenant caused the vanity to be damaged to the extent it required removal.

Given that the Landlord gave no evidence or evidence to support a belief that the Tenant damaged the door, I find that the Landlord has not substantiated that the Tenant caused the damage to the door.

Given the inspection report photo of the laundry room and without any evidence otherwise I take the flooring in that room to be tile. As the Landlord has not substantiated the costs to replace the flooring in the unit, I find that the Landlord has also not substantiated costs to move the washing machine and dryer in and out for the purpose of placing the flooring in that room.

In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that costs for the damage or loss have been incurred or established. I take an adverse inference from the Landlord's lack of supporting evidence from the strata in relation to the long-term presence of the leak. Nonetheless, whether the Tenant was negligent in relation to the garburator or whether the 8-month leakage problem caused mold to appear, the Landlord has not provided evidence of the costs in relation to cleaning mold, cleaning bird droppings, making repairs to the baseboards, or the removal of kitchen cabinets or counters and plumbing fixtures. As the Landlord has only provided evidence of a global cost for renovations, I find that the Landlord has not substantiated costs for these items and I dismiss these claims.

As the Landlord has not substantiated any of its claims, I find that the Landlord is not entitled to recovery of the filing fee and in effect the application is dismissed in its entirety.

Conclusion

The application is dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: September 9, 2020

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Residential Tenancy Branch