



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Sutton Max Realty and Prop. Mgt. and  
[tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes**

FFL MNDL-S

### **Introduction**

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

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

SJ, agent for the landlords, appeared with WL for the landlords in this hearing. Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The tenant confirmed receipt of the landlords' application ('Application'). In accordance with section 89 of the *Act*, I find that the tenant was duly served with the Application. All parties confirmed receipt of each other's evidentiary materials and that they were ready to proceed.

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

Are the landlords entitled to monetary compensation for unpaid rent and losses?

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

### **Background and Evidence**

This month-to-month tenancy began on June 13, 2017, and ended on March 29, 2020. Monthly rent was set at \$2,000.00, payable on the first of every month. The landlord collected a security deposit in the amount of \$1,000.00, which they still hold.

The landlords are seeking a monetary order in the amount of \$498.75 for the tenants' failure to leave the rental unit in reasonably clean condition. The landlords submitted an invoice in the amount of \$498.75 which included \$135.00 plus tax for junk removal, and \$120.00 and \$220.00 plus tax for house and carpet cleaning.

The tenant does not dispute that she had failed to dispose of all her personal belongings. The tenant, however, disputes the landlords' monetary claim for cleaning as the rental unit was not clean when she first moved in. The tenant testified that the carpet and rental unit was "really dirty" when she had moved in, and should not be responsible for cleaning at the end of the tenancy.

The landlords provided a copy of the move-in and move-out inspection report in their evidentiary materials.

### **Analysis**

When making a claim for damages under a tenancy agreement or the *Act*, the party making the claim has the burden of proving their claim. Proving a claim in damages includes establishing that damage or loss occurred; establishing that the damage or loss was the result of a breach of the tenancy agreement or *Act*; establishing the amount of the loss or damage; and establishing that the party claiming damages took reasonable steps to mitigate their loss.

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 except for reasonable wear and tear.

As the tenant the fact that she failed to remove or dispose of all her personal belongings or garbage, I allow the landlords' monetary claim for junk removal in the amount of \$135.00 plus tax for a total monetary order of \$141.75.

In consideration of the evidence and testimony before me, I find that the move-in inspection report completed in 2017 notes that the carpet was "old". I find that the

landlords had failed to provide sufficient evidence to support that the carpet was in satisfactory condition at the beginning of the tenancy. I find that the landlord failed to support that condition of the carpet was the result of the tenant's failure to properly clean the carpet rather than wear and tear. Accordingly, I dismiss the landlords' monetary claim for carpet cleaning without leave to reapply.

The tenant testified that the rental unit was not clean at the beginning of the tenancy. Regardless of whether the rental unit was clean or not at the beginning of the tenancy, section 37(2)(a) of the *Act* requires the tenant to leave the rental unit in reasonably clean condition, except for reasonable wear and tear. The lack of cleaning at the beginning of the tenancy, or before the tenancy began, does not relieve the tenant of her obligations to clean the rental unit at the end of the tenancy. I find that the tenant resided in the rental unit for almost three years, and failed to comply with section 37 (2)(a) of the *Act* by leaving the rental unit in reasonably clean condition. Accordingly, I allow the landlords' monetary claim for cleaning in the amount of \$120.00 plus tax for a total monetary order of \$126.00.

I allow the landlords to recover the \$100.00 for this application.

The landlords continue to hold the tenant's security deposit of \$1,000.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain a portion of the security deposit in satisfaction of the monetary claim. The remainder shall be returned to the tenant.

### **Conclusion**

I allow the landlords a monetary award in the amount of \$126.00 for cleaning, \$141.75 for junk removal, and \$100.00 for recovery of the filing fee. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain a portion of the security deposit in satisfaction of this monetary award. The remainder shall be returned to the tenant.

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

The tenant is provided with a Monetary Order in the amount of \$632.25 for the return of the remaining portion of her deposit. The landlords must be served with this Order as soon as possible. Should the landlords 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: September 9, 2020

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Residential Tenancy Branch