



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, FFL

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for a monetary order for damages for the Landlord of \$1,100.00, retaining the security deposit to apply to this claim; and to recover the \$100.00 cost of her Application filing fee.

The Landlord appeared at the teleconference hearing and gave affirmed testimony; however, no one attended on behalf of the Tenant. The teleconference phone line remained open for over an hour and was monitored throughout this time. The only person to call into the hearing was the Landlord, who indicated that she was ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Landlord .

I explained the hearing process to the Landlord and gave her an opportunity to ask questions about the hearing process. During the hearing the Landlord was given the opportunity to provide her evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

As the Tenant did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified that she served the Tenant with the Notice of Hearing documents by Canada Post Express Courier on September 23, 2020. The Landlord provided a Canada Post tracking number as evidence of service. I find that the Tenant was deemed served with the Notice of Hearing documents in accordance with the Act. I, therefore, admitted the Application and evidentiary documents, and I continued to hear from the Landlord in the absence of the Tenant.

### Preliminary and Procedural Matters

The Landlord provided her email address in the Application and the Tenant's email address in the hearing. The Landlord confirmed her understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

### Issue(s) to be Decided

- Is the Landlord entitled to a monetary order, and if so, in what amount?
- Is the Landlord entitled to recovery of the \$100.00 Application filing fee?

### Background and Evidence

The Landlord submitted a tenancy agreement, which indicated that the periodic tenancy began on September 1, 2019, with a monthly rent of \$2,225.00, due on the first day of each month. The tenancy agreement indicated that the Tenant paid the Landlord a security deposit of \$1,100.00, and no pet damage deposit.

The Landlord said that the rental unit is approximately 1250 square feet, with three bedrooms and one and a half bathrooms.

The Landlord submitted a condition inspection report ("CIR") that the Parties had filled out and signed on August 31, 2019 at the start of the tenancy. The Landlord also submitted a copy of the CIR with the move-out comments added and dated August 31, 2020. The comments on the move-out side of the CIR indicate that the rental unit was not left clean by the Tenant. The completed CIR also noted fire damage to the ceiling of the deck.

The Landlord submitted a monetary order worksheet that contains the following, and which items we reviewed during the hearing.

	Receipt/Estimate From	For	Amount
1	[International Retailer]	Carpet cleaner spot remover	\$29.10
2	[International Hardware store]	TSP to clean deck damage	\$3.80
3	[International Hardware store]	Tools for scrubbing deck	\$12.64
4	[International Hardware store]	Paint for deck sealing	\$116.66

5	[Local repair company]	Repair damage to dishwasher	\$262.01
6	3.5+ hours. carpet cleaning	Carpet cleaning in master bdrm	\$175.00
7	11 hours cleaning	Based on estimate (\$45+/hr)	\$497.00
8	4 hours clean/paint deck	Scrub, clean, seal & repair	\$250.00
9	[International Hardware store]	Cleaner for washer tub/seal	\$17.14
		<b>Total monetary order claim</b>	<b>\$1,363.35</b>

### **#1 Carpet Cleaner Spot Remover → \$29.10**

The Landlord said:

[The Tenant] said that he has not lived there for a year, as it was not September 1, 2020, and therefore, that he did not have to clean. I let them know that they did, in fact, have to clean, and I let them come back at 3 p.m. to clean. They came back and were there for 20 minutes. The cleaner they used leaked, so I went to get towels from the basement tenant, but [the Tenant] had left when I got back. The water they used to clean was filthy - black. I can't inspect wet carpet, so I waited until the next morning to inspect. The smell was terrible. During the inspection, they had had every window in the house open.

The Landlord referred to the two pictures included in the CIR file. The two photographs showed dirt on the "high traffic areas" of the bedroom carpet. The second photograph showed a series of stains in the carpet. The Landlord said that she had to buy carpet cleaner to try to get the dirt and stains out. "This was not a clean carpet", she said.

The Landlord referred me to the next photograph, and she noted the dirty water from the first carpet cleaning and the hair removed from the carpet cleaner. The Landlord said: "I have a machine and I went and got some cleaner with [a smell remover] in it to try to get rid of the smell. I was worried I wasn't going to get rid of the smell. I cleaned it twice. The smell is gone, not all the dirt, but it's more acceptable."

The Landlord submitted a receipt for \$29.10 for this cleaner from an international hardware chain.

### **#2 TSP to Clean Deck Damage → \$3.80**

The Landlord said that she bought trisodium phosphate, which she said is a heavy-duty

cleaner for the deck. The Landlord said:

We bought it to try to clean the ceiling of the deck. Sometime after July 27, he had a fire in his barbeque on the deck - and it was in his last week there. My neighbour saw the flames; she saw the flames from their front yard. She pounded on door to alert the Tenants. We left a fire extinguisher, and he used it to put it out. We found the discharged fire extinguisher at the bottom of stairs to the deck.

We tried washing it with [a standard cleaner], but it wasn't cleaning the ceiling at all. I then went and got TSP, but I never got the smoke out of the brick. What complicated it, was because he used the fire extinguisher with the chemicals.

The Landlord submitted photographs of the ceiling and brick wall of the residential property deck. Marks from the smoke on were evident on the ceiling in these photographs. The Landlord wrote the following above one of the photographs:

Sometime after last inspection (July 27), suspect tenant had a fire in barbeque. Smoke damage to deck ceiling and brick wall. Was not just normal use of barbeque as tenant used fire extinguisher to put out. As discharged fire extinguisher found at bottom of stairs to deck (owner and tenants have used this spot for the barbeque for almost 10 yrs and not other damage has ever occurred). Took 3 washings including TSP to get most of the damage clean. Need to prime/seal immediate area above barbeque and then repaint almost half of deck ceiling.

The Landlord submitted a photograph that she said showed the ceiling part way through being cleaned. The difference between the clean and uncleaned sections was notable.

The Landlord submitted a receipt for \$3.80 for this cleaner from an international hardware chain.

### **#3    Tools for Scrubbing Deck Damage → \$12.64**

The Landlord said that she bought two tools in order to clean the ceiling and brick damage from the barbeque fire. The Landlord submitted a receipt for \$12.64 for these tools from an international hardware chain.

**#4 Paint for Deck Sealing → \$116.66**

The Landlord said that this claim is for the paint and primer to clean and repaint the deck ceiling. She said she only charged two hours of time priming and painting, and not the whole time it took to paint the ceiling.

The Landlord submitted a receipt for \$116.66 from an international hardware chain.

**#5 Repair Dishwasher → \$262.01**

The Landlord said that on February 29, 2020, the Parties had arranged for an inspection that day. She received a text from the Tenant with a picture of the dishwasher with the front off. The text read:

The front just came off  
I don't ever use it,  
I went to open it to see if anything in it and that just happened.  
I will get it fixed  
I'm truly sorry, but I didn't pull hard and I didn't mean to break it.

The Landlord said that about three minutes later, she received another text from the Tenant, in which he said:

My bro in law does renos. I'm sure he can get me in touch with someone who can fix it.

The Landlord said: "I didn't respond until later than night, as I didn't see it right away." She said she told him to get a Bosch authorized repairer.

The Landlord said:

This was a pattern of his. If something was broken, he wouldn't tell me until the day of or before an inspection. He told me verbally that he was doing the dishes by hand, and checked to see if the kids had put any in the dishwasher. It makes sense, because I would see dishes in the sink or in the dish rack, whenever I was there.

During the [Covid19] lock down, I didn't talk to him at all about getting it fixed. If he wasn't worried about it, I wouldn't force him to get it fixed during that time frame.

During an inspection in July, I phoned a Bosch repair person, .... I got an estimate. [The Tenant] swore at me there's no way he's fixing it. I had contacted the general RTB line and was told that he needs to return it to you in the condition you gave it to him.

In the inspection, he told me that I had broken it before and repaired it. I had good relationship with previous tenants. If they had done it, they would have told me.

The Landlord submitted photographs of the dishwasher, with the following comment above it:

Move out inspection addendum – damage. Dishwasher. Tenant pulled off the front panel controls and sheared one anchor screw. Repair service person indicated this happens when someone pulls too hard on handle. Note: Dishwasher still functions. Landlord getting this repaired.

In the hearing the Landlord said:

Between the counter top and the dishwasher there's an angle piece – you screw it into the countertop – that screw was sheered off. You can see broken clips – see arrows in the photos that point to them. When the repair guy put a new piece back in, he said that someone had tried to put it back on, but all the buttons were in the wrong location. He didn't charge extra and had to put them back.

The Landlord submitted an invoice with "Paid" across it for the dishwasher repair billed at \$262.01.

#### **#6     Clean Carpet Master Bedroom → \$175.00**

The Landlord described the details of this labour in item #1 above. She said she invested three and a half hours, "...cleaning, rinsing, spot cleaning," and she said the amount claimed was based on a handyman rate of \$50.00 per hour. She said: "A professional cleaner said that was the standard rate. For me, personally, my personal bill rate for labour to replace my time, I'd pay a lot more than \$50.00."

#### **#7     Cleaning Throughout House → \$497.00**

The Landlord described this claim, as follows:

When I first came in - it's a split level - I walked up and saw that the return air vent was really dirty. It didn't feel clean and then I started looking.

We spent over 15 hours cleaning and that doesn't include the carpet or the deck, because it was all the little details. I thought I can't even, though I'd like to, I can't charge him for all that.

I had to wash out every cupboard in the kitchen. I pulled out the stove and the fridge - see pictures - the stove was sort of clean, but not really. If anyone came in, the knobs weren't cleaned, stuff in bottom - the pots and pans drawer – dirt in it. The Tenant's daughter said, "This is not our responsibility, that's the Landlord's."

I couldn't trust that he had cleaned anything. In the family bathroom, he had a 10-year-old daughter, a 12-year-old son, and a teenage daughter. Stuff was left in the cupboards, and so they hadn't cleaned it. There was some kind of makeup stain and I used [a strong cleaner] at full strength to get it out. All those little details.

If I had got a cleaner in, what would it have cost? I actually used one of the quotes, which was less than it had been for my time. They wouldn't have done as much as I did, but – see estimate from [the cleaner] of what they would have charged me to do a move out clean - \$495.05. That is less than my time was worth.

The Landlord submitted a number of photographs of the condition in which the Tenant left the rental unit at the end of the tenancy. These photographs included:

- Dirty cabinets and cupboard doors,
- Dirty drawers,
- Dirty shelves,
- Items left behind in bathroom cabinets,
- Dirty toilets,
- Ring of red mould round bathtub and sinks,
- Mould in the shower door runner,
- Dirty bathroom floors,
- Baseboards not cleaned,
- Dirt and debris beneath kitchen appliances,
- Stove knobs and panel not cleaned,

- Side of stove dirty,
- Greasy range hood,
- Microwave not cleaned,
- Dirty dishwasher filter,
- Mildew and mould over rubber seal in washing machine,
- Dryer door and filter not cleaned,
- Dirty floors throughout the rental unit,
- Walls, doors with dirty spots and scuff marks,
- None of cold air returns cleaned, and
- Closets not swept out.

The Landlord said she included 11 hours of her time it took to clean the rental unit, and she billed at \$45.18 per hour for a total charge of \$497.00.

#### **#8 Clean, Paint Deck Damage → \$250.00**

This claim is for the labour associated with items 2 through 4 above, repairing the condition of the deck after an apparent fire on the barbeque. The Landlord said that she worked for four hours and charged \$62.50 per hour for this claim.

#### **#9 Cleaner for Washer Tub/Seal → \$17.14**

The Landlord said the rental unit contains a front-end load washer and dryer. She said:

I had indicated that they had to keep the door open, so that air circulates. He wasn't there, but I also said to the daughter that they should be running the cleaner periodically. There was a dirt and mildew smell; I had to get the washer cleaner stuff – ran it three times. It's not as nice as I'd like it to be, but there's not much more I can do about it. I even put bleach on those seals.

I opened up the dishwasher after it being closed since February. I had to get the cleaner stuff for it, too. And ran it.

The Landlord submitted a receipt from an international hardware chain for appliance cleaner tabs, which came to \$17.14.



### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Landlords' and tenants' rights and obligations for cleaning and repairs are set out in sections 32 and 37 of the Act. Section 32 states:

#### **Landlord and tenant obligations to repair and maintain**

**32** (1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

Section 37 of the Act states that a tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

#### **#1 Carpet Cleaner Spot Remover → \$29.10**

I find that the Landlord has provided sufficient evidence on this claim of the dirty carpet left behind by the Tenant, and I award the Landlord with recovery of the spot remover cost of **\$29.10**, pursuant to section 67 of the Act.

**#2 TSP to Clean Deck Damage → \$3.80**

I find that the before and after photograph of a portion of the ceiling was compelling evidence. I find the Landlord has provided sufficient evidence to prove this claim. I award the Landlord **\$3.80** from the Tenant for this claim, pursuant to section 67 of the Act.

**#3 Tools for Scrubbing Deck Damage → \$12.64**

I find that the Landlord has provided sufficient evidence to prove this claim on a balance of probabilities. I, therefore, award the Landlord with **\$12.64** from the Tenant for this claim, pursuant to section 67 of the Act.

**#4 Paint for Deck Sealing → \$116.66**

I find that the Landlord has provided sufficient testimony and supporting documentary evidence to prove this claim on a balance of probabilities. I, therefore, award the Landlord with **\$116.66** from the Tenant for this claim, pursuant to section 67 of the Act.

**#5 Repair Dishwasher → \$262.01**

I find that the Landlord has provided sufficient testimony and supporting documentary evidence to prove this claim on a balance of probabilities. I, therefore, award the Landlord with **\$262.01** from the Tenant for this claim.

**#6 Clean Carpet Master Bedroom → \$175.00**

The Landlord said she consulted professional cleaners to determine what hourly rate she should charge for this work she had to do. However, the Landlord is not a professional cleaner, and therefore, she may have taken more time to do the work than would a professional cleaner. As such, I find that \$50.00 per hour is \$20.00 an hour higher than the standard range of cleaning that I come across in arbitration.

I am satisfied that the Landlord had to invest her time in cleaning the carpeting; however, I find that an appropriate hourly rate for this work is \$30.00 per hour for three and a half hours. I, therefore, award the Landlord with **\$105.00** for this claim.

**#7     Cleaning Throughout House → \$497.00**

I find that the Landlord provided sufficient evidence to meet her burden of proof on a balance of probabilities in this matter. I find it reasonable to believe that it took eleven hours to clean this sized unit, given how dirty it was throughout on almost every surface.

However, again, I find that the Landlord has used a higher hourly rate than is reasonable for someone who is not a professional cleaner. I find that an hourly rate of \$30.00 is more reasonable, based on my experience in this position. I, therefore, award the Landlord with **\$330.00** from the Tenant for cleaning labour.

**#8     Clean, Paint Deck Damage → \$250.00**

I find that the Landlord provided sufficient evidence of the damage done to the deck ceiling and brick wall, as noted above, to prove that it would have taken four hours to do this work.

I appreciate that it was a difficult job to complete; however, I again find that the Landlord overcharged the hourly rate for this claim. I find a more reasonable rate is \$35.00 per hour, based on my experience as an Arbitrator. As a result, I award the Landlord with **\$140.00** for the labour to do this work, pursuant to section 67 of the Act.

**#9     Cleaner for Washer Tub/Seal → \$17.14**

I find that the Landlord submitted sufficient evidence to prove this claim on a balance of probabilities. I, therefore, award the Landlord with **\$17.14** from the Tenant for this claim, pursuant to section 67 of the Act.

Summary and Set Off

I find this claim meets the criteria under section 72(2)(b) of the Act to be offset against the Tenant's security deposit of \$1,100.00, in partial satisfaction of the Landlord's monetary award.

The Landlord is awarded \$1,016.35 for her claims. Given the Landlord's success in her Application, I also award her with recovery of the \$100.00 Application filing fee from the Tenant, pursuant to section 72 of the Act.

	Receipt/Estimate From	For	Amount
1	[International Retailer]	Carpet cleaner spot remover	\$29.10
2	[International Hardware store]	TSP to clean deck damage	\$3.80
3	[International Hardware store]	Tools for scrubbing deck	\$12.64
4	[International Hardware store]	Paint for deck priming & sealing	\$116.66
5	[Local repair company]	Repair damage to dishwasher	\$262.01
6	3.5+ hours. carpet cleaning	Carpet cleaning in master bdrm	\$105.00
7	11 hours cleaning	Based on estimate (\$45+/hr)	\$330.00
8	4 hours clean/paint deck	Scrub, clean, seal & repair	\$140.00
9	[International Hardware store]	Cleaner for washer tub/seal	\$17.14
		<b>Sub-total</b>	<b>1,016.35</b>
		Application filing fee	\$100.00
		Less security deposit	(\$1,100.00)
		<b>Total monetary order claim</b>	<b>\$16.35</b>

The Landlord is awarded a total of \$1,116.35, and is authorized to retain the Tenant's security deposit in partial satisfaction of this award. The Landlord is awarded a Monetary Order for the remainder of the monetary award in the amount of **\$16.35**, pursuant to section 67 of the Act.

### Conclusion

The Landlord is successful in her Application, as she provided sufficient evidence to establish the bulk of her claims on a balance of probabilities. The Landlord is awarded \$1,016.35 for her claims from the Tenant. She is also awarded recovery of the \$100.00 Application filing fee for a total award of \$1,116.35.

The Landlord is authorized to retain the Tenant's security deposit in partial satisfaction of the award. I grant the Landlord a Monetary Order for \$16.35 from the Tenant for the balance owing on the monetary award.

This Order must be served on the Tenant by the Landlord and may be filed in the

Provincial Court (Small Claims) and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: January 20, 2021

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Residential Tenancy Branch