



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDL, FFL

### Introduction

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

- a monetary order for damage to the rental unit pursuant to section 67;
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the landlord served the tenants with the notice of hearing package via Canada Post Registered Mail. Both parties also confirmed the landlord served the tenants with the submitted 11 document evidence files via Canada Post Registered Mail. Both parties also confirmed the tenants served the landlord with 2 Canada Post Registered Mail package(s) containing the 5 documentary evidence files submitted. Neither party raised any service issues. I accept the undisputed affirmed evidence of both parties and find that both parties have been sufficiently served as per sections 88 and 89 of the Act with the notice of hearing package and the submitted documentary evidence of both parties.

At the outset, the named landlord stated that she was blind and had her agent, P.L. attend to assist her during the hearing with her documents.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage and recovery of the filing fee?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on September 1, 2019 on a fixed term tenancy ending on August 31, 2020 and then thereafter on another fixed term or month-to-month basis as per the submitted copy of the signed tenancy agreement dated August 8, 2019. The monthly rent was \$2,500.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$1,250.00 was paid on September 1, 2019.

The landlord seeks a monetary claim of \$505.00 which consists of:

\$236.25	Professional Carpet Cleaning
\$63.84	Screen Door Repairs
\$106.40	Estimated Screen Door Painting
\$47.99	Estimated Screen Door Replacement
\$454.48	Total

A review of the landlord's monetary claim above notes that the total applied for is less than that filed. On this basis, the landlord's monetary claim is amended to match to \$454.48, plus recovery of the \$100.00 filing fee.

The landlord stated that after the tenants vacated the rental unit the landlord found stains in the carpet; two ripped window screens and damage to the screen door requiring replacement.

The landlord stated that a condition inspection report began on one day with one tenant and completed on the next day with both tenants. On the date of the final move-out inspection the landlord noted 3 stains in the carpet; two damaged window screens and a damaged door screen requiring replacement.

The landlord has submitted an invoice dated December 11, 2020 for \$236.25 for the cost of professional carpet cleaning of the entire rental unit. The landlord stated that the contractor had stated that "spot cleaning" was not possible and that the entire carpet had to be cleaned. The tenants dispute this claim arguing that there was no stain in the living room and refers to the tenants' photographic evidence of the living room showing no stain. The landlord argued that there were photographs submitted by the landlord but that she could not identify the relevant photograph for reference. The landlord called her witness, Z.M. who provided direct testimony that she was present during the

initial move-out inspection on December 3, 2020 and that she remembered the carpet being wet from cleaning and that when she was present again on the next day, she noted that there were stains in the carpet. The landlord repeatedly stated that she had an assistant submit the evidence and was not sure if the relevant photograph was submitted to the Residential Tenancy Branch. The landlord stated that in the move-in report that was completed by both parties, no stains were noted on the report signed by both parties. Despite this, the landlord nor her agent made any references to any of the submitted evidence. The tenants stated that there were no stains in the living room and repeats that her photographs of the living room show no stains.

The landlord seeks recovery of \$63.84 for the cost of repairing two window screens. The landlord submitted a handwritten receipt dated November 10, 2020 which shows the replacement of mesh (X2) and screen clips. The tenants disputed this claim arguing that no damage was noted on the incomplete condition inspection report for the move-out for any window screens. The tenants argued that there were insufficient details noted on the receipt. The tenants also argued that the two window screens were very old. The landlord responded stating that there is no damage noted on the condition inspection report for the move-in but conceded that she did not provide any proof of actual damage to the two window screens. The tenants repeatedly argued that there is no mention of two damaged window screens on the move-out report partially completed by both parties or the copy submitted by the landlord.

The landlord seeks recovery of \$47.99 and \$106.40 for estimated costs to replace a screen door and to paint it. The landlord submitted copies of estimates dated November 21, 2020 for \$106.40 for the estimated cost of painting a screen door and picture of a screen door with a weblink to a local provider for a cost of \$47.99 new screen door. The landlord claims that the screen door was damaged by the tenants during the tenancy. The tenants dispute this claim arguing that the landlord did not provide any proof of damage to the screen door. The landlord stated that during the move-in no damage was noted on the screen door. The tenants argued that the noted damage on the screen door on the move-out report was added after the inspection by the landlord without the tenants. The landlord stated that the screen door was not repairable and had to be replaced due to how it was built. The landlord did not provide any supporting evidence to this effect. The landlord stated that the screen door was 5 years old but did not provide any evidence of actual damage.

## Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

I accept the affirmed evidence of both parties and find on a balance of probabilities that the landlord has failed to establish a claim that there were carpet stains; damage to two window screens and a screen door caused by the tenants. The landlord relies primarily on a condition inspection report for the move-out which is disputed by the tenants. This is noted in Section 1 at the end of the report which states in part,

*Most of the issues are normal wear and tear. Some issues have been added between the final walk through on the 2<sup>nd</sup> and 3<sup>rd</sup> (for example patio door screen).*

[reproduced as written]

Despite the landlord's witness providing undisputed direct testimony that on December 3, 2020 she was present during the start of the move-out inspection and noted that the carpets were wet. The same witness also stated that she was present the next day and had seen stains in the living room carpet. This is in contradiction to the photographs of the rental unit living room provided by the tenants which shows no stains. On this issue, the landlord failed to provide any supporting evidence of stains in support of this claim.

The landlord's other two claims again rely primarily on the disputed condition inspection report for the move-out. Despite the landlord's testimony that the two window screens and the screen door were damaged, the landlord has failed to provide any supporting evidence of damage or that the screen door was not repairable.

I find based on the above noted evidence of both parties that the landlord's application is dismissed. The landlord has failed to provide sufficient evidence to satisfy me of actual damage to the carpet, two window screens and the door screen as claimed.

Conclusion

The landlord's 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: March 12, 2021

---

Residential Tenancy Branch