



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Skyline Living  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR, MNRL-S, MNDCL-S, FFL

### Introduction

The landlord filed an Application for Dispute Resolution (the “Application”) on March 29, 2021 seeking an order to recover the money for unpaid rent, and an order for compensation for damage to the rental unit. Additionally, the landlord seeks to recover the filing fee for the Application. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on July 15, 2021. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord attended the telephone conference all hearing; the tenant did not attend.

To proceed with this hearing, I must be satisfied that the landlord made reasonable attempts to serve the tenant with this Notice of Dispute Resolution Proceeding. This means the landlord must provide proof that the document has been served at a verified address allowed under s. 89 of the *Act*, and I must accept that evidence.

In the hearing the landlord stated that they used Canada Post registered mail to send the Notice of Hearing to the tenant. This package included the evidence the landlord presents in this hearing. The landlord gave testimony that the address they provided on the registered mail package was that of the rental unit where the tenant still resided. They provided a Canada Post registered mail tracking number – this information appears in the landlord’s evidence. Using this tracking number, they verified that the package was delivered on April 17, 2021.

I accept the landlord’s undisputed evidence that the package was sent to the tenant via registered mail. Based on the submissions of the landlord, I accept they served notice

of this hearing and their evidence in a manner complying with s. 89(1)(c) of the *Act*, and the hearing proceeded in the tenant's absence.

#### Preliminary Matter – Order of Possession

The landlord issued a 10-Day Notice to End Tenancy for Unpaid Rent to the tenant on February 25, 2021. A copy of this document appears in the landlord's evidence. This provided the move-out date of March 8, 2021.

The tenant overstayed this end-of-tenancy date; however, they moved out from the rental unit on May 31, 2021.

In the hearing, the landlord stated there was no need for an Order of Possession for the notice to end the tenancy. They stated this piece of their Application was withdrawn; therefore, I dismiss this claim without leave to reapply.

#### Issue(s) to be Decided

- Is the landlord entitled to a monetary order for recovery of rent, and/or compensation for damage pursuant to s. 67 of the *Act*?
- Is the landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

#### Background and Evidence

The landlord provided a copy of the tenancy agreement and spoke to its relevant terms in the hearing. Both parties signed the tenancy agreement on July 15, 2020 for the tenancy starting that same day. The monthly rent amount was \$1,555, payable on the 1<sup>st</sup> of each month. The tenant paid an initial security deposit of \$777.50. The agreement shows that each time a rent payment is behind the scheduled payment date of the 1<sup>st</sup> of each month, a \$25 fee is imposed.

Forming schedule "C" of the tenancy agreement is a "Sample Inter-Unit Cleaning & Repair Price List". This sets the rate for carpet cleaning at \$200. Both the tenant's

initials and those of the landlord's agent appear on the bottom of that page as an indication that the page was reviewed upon the parties signing the tenancy agreement.

With the tenancy agreement, the landlord submitted a copy of the Incoming Inspection Report. This shows most of the rental unit as "newly renovated" and "newly painted." The document also bears the notation: "existing carpet in living room and bedrooms does have some wear."

The landlord explained that the tenant moved out from the rental unit on May 31, 2021. This was because of the landlord issuing a One-Month to End Tenancy for Cause. The tenant did not attend a move-out inspection meeting that the landlord scheduled for the final move-out date. They "left quite a mess" and "left a lot of items".

An agent of the landlord completed the Outgoing Inspection Report, a copy of which appears in the landlord's evidence. This shows "carpet needs cleaning" and applies the \$200 rate set out in Schedule "C" of the tenancy agreement. Additionally, the report notes "holes in wall x2", setting \$200 as a chargeback amount for this. The report notes 16 hours total cleaning for the unit, and 6 hours for removal of items left behind by the tenant. The document bears the signature of the landlord's agent, but not that of the tenant.

The landlord provided a copy of a receipt showing the amount of \$210. This was for carpet cleaning service taking place on June 23, 2021.

In addition to these pieces of their monetary claim, the landlord listed rent amounts owing. They also provided a ledger for this tenant showing all transactions from July 2020 through to April 2021. The pieces of the landlord's claim for rent amounts owing are:

- January and March rent, at \$1,555 each full monthly amount of rent
- February rent, at \$5 which was not paid
- February and March NSF fee, at \$25 each

In total, the landlord's claim for monetary compensation is \$3,565. This is set out in the Monetary Order Worksheet that an agent of the landlord completed and signed on July 5, 2021.

Adding a \$100.00 Application filing fee for this hearing, the total amount of the landlord's claim is \$3,665.00.

### Analysis

The *Act* s. 37(2) requires a tenant, when vacating a rental unit to leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all the keys and other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide enough evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

As set out above, the landlord's worksheet identifies two separate amounts: recovery of rent amounts; and cleaning costs. To determine the landlord's eligibility for compensation, I carefully examine the evidence they have presented for each item, to establish whether they have met the burden of proof.

For the rent amounts owing, I find the landlord has verified the amount in question and provided proof that the amount owing is in relation to the tenancy. AS a result, I find the amount of \$3,165 satisfies the landlord's claim for rent owing; I so award this amount to the landlord via monetary order.

The tenant signed the agreement portion in Schedule "C" and was aware of the chargeback for carpet cleaning. With this being a stated amount in the agreement, and the landlord's proof by invoice that this work occurred, I award the additional \$200 amount to the landlord.

The landlord did not show the actual proof of holes in the wall requiring repair. The amount of \$100 per hole fixed is not shown in Schedule "C" of the agreement. For this piece, I find the landlord has not established that damage exists. I make no award for this piece of the landlord's claim.

The landlord has properly made a claim against the security deposit and have the right to do so. The landlord is holding this amount of \$777.50. I order this amount deducted from the total of the rent and carpet cleaning. Reducing the total by \$777.50 brings the total monetary order to \$2,587.50. Applying the security deposit to an amount owing is permissible by s. 72(2)(b) of the *Act*.

Because the landlord was successful in their Application, I grant the reimbursement of the \$100 Application filing fee.

### Conclusion

Pursuant to s. 67 and s. 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$2,687.50 for compensation set out above and the recovery of the filing fee for this hearing application. The landlord is provided with this Order in the above terms and the tenant must be served with **this Order** as soon as possible. Should the tenant fail to comply with this Order, the landlord may file this Order in the Small Claims Division of the Provincial Court where it will be 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 s. 9.1(1) of the *Act*.

Dated: July 16, 2021

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Residential Tenancy Branch