



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** MNDL

### **Introduction**

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

- a monetary order for money owed or compensation monetary loss or money owed under the Act, regulation or tenancy agreement pursuant to section 67.

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. Both parties were clearly informed of the RTB Rules of Procedure about behaviour including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11 which prohibits the recording of a dispute resolution hearing. Both parties confirmed that they understood.

The tenant confirmed receipt of the landlord's application for dispute resolution hearing and evidence package. In accordance with sections 88 and 89 of the Act, I find that the tenant duly served with the landlord's application and evidence. The tenant did not submit any written evidence for his hearing.

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

Is the landlord entitled to monetary compensation for losses?

### **Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony provided in the hearing, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began approximately 5 years ago. Monthly rent is set at \$437.00, payable on the first of the month. The landlord had collected a security deposit in the amount of \$145.50, which the landlord still holds.

The landlord is seeking a monetary order in the amount of \$128.99 for reimbursement of carpet cleaning expenses, as supported by the invoices submitted. It is undisputed by the tenant that they had accidentally spilled concentrated laundry detergent on the hallway carpet. The tenant disputes the application as they feel that the landlord failed to mitigate the tenant's exposure to the losses claimed as they landlord had dispatched the professional cleaner without consulting with the tenant first, or giving the tenant the opportunity to clean the carpet. The tenant also argues that they should not be responsible for more than \$34.00 as the spill was soap, and not considered dangerous or urgent. The tenant does not feel that the soap would have caused a permanent stain on the floor if the landlord had waited to address the matter instead of dispatching the carpet cleaner before consulting with the tenant.

### **Analysis**

Section 32 of the *Act* outlines the following obligations of the landlord and the tenant to repair and maintain a rental property:

#### **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.

Although the tenant does not dispute that they did spill detergent on the carpet, the tenant testified that the landlord failed to mitigate the tenant's exposure to the landlord's losses by failing to inform the tenant first, or giving the tenant the opportunity to address the matter. Residential Tenancy Policy Guideline #5 addresses a landlord's duty to minimize loss and states the following:

*"Where the landlord or tenant breaches a term of the tenancy agreement or the Residential Tenancy Act or the Manufactured Home Park Tenancy Act (the Legislation), the party claiming damages has a legal obligation to do whatever is reasonable to minimize the damage or loss<sup>1</sup>. This duty is commonly known in the law as the duty to mitigate. This means that the victim of the breach must take reasonable steps to keep the loss as low as reasonably possible. The applicant will not be entitled to recover compensation for loss that could reasonably have been avoided.*

*The duty to minimize the loss generally begins when the person entitled to claim damages becomes aware that damages are occurring. The tenant who finds his or her possessions are being damaged by water due to an improperly maintained plumbing fixture must remove and dry those possessions as soon as practicable in order to avoid further damage. If further damages are likely to occur, or the tenant has lost the use of the plumbing fixture, the tenant should notify the landlord immediately. If the landlord does not respond to the tenant's request for repairs, the tenant should apply for an order for repairs under the Legislation<sup>2</sup>. Failure to take the appropriate steps to minimize the loss will affect a subsequent monetary claim arising from the landlord's breach, where the tenant can substantiate such a claim.*

*Efforts to minimize the loss must be "reasonable" in the circumstances. What is reasonable may vary depending on such factors as where the rental unit or site is located and the nature of the rental unit or site. The party who suffers the loss need not do everything possible to minimize the loss, or incur excessive costs in the process of mitigation.*

*The Legislation requires the party seeking damages to show that reasonable efforts were made to reduce or prevent the loss claimed."*

I have considered the testimony and evidence before me, and I find it undisputed that the tenant did indeed spill detergent on the hallway carpet. The invoices submitted indicate that the spill was substantial enough to necessitate at least two visits by the carpet cleaning contractor. Although I find that the tenant is responsible for the damage, I do, however note the tenant's concerns that the landlord had proceeded to dispatch the cleaner without providing the tenant with the opportunity to clean the stain first. Although I do agree with the tenant that this was not an urgent matter, and perhaps the losses could have been mitigated by addressing the issue with the tenant first, I do not

find that this was a negligent or malicious act on part of the landlord, but rather a decision made by the landlord to ensure that the communal hallway is maintained in a clean and sanitary condition. Based on these findings, I find that tenant should be responsible for compensating the landlord for a portion of the cleaning costs. As I had noted, perhaps the losses could have been mitigated by a mutual resolution prior to the dispatching of the carpet cleaning service. I therefore allow the landlord a monetary order for reimbursement in the amount of \$64.50.

### **Conclusion**

I issue a monetary order in the amount of \$64.50 in the landlord's favour.

The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) 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: February 10, 2022

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Residential Tenancy Branch