



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDL-S, FFL

### Introduction

The Landlord filed an Application for Dispute Resolution on August 6, 2021 seeking compensation for damages to the rental unit, and reimbursement of the Application filing fee. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on February 22, 2022.

Both parties attended the conference call hearing. I explained the process and both parties had the opportunity to ask questions and present oral testimony during the hearing. The Tenant confirmed they received the prepared documents of the Landlord in advance of the hearing. The Tenant confirmed they did not prepare or provide documents of their own for this hearing.

### Issues to be Decided

Is the Landlord entitled to compensation for damages to the rental unit, pursuant to s. 67 of the *Act*?

Is the Landlord entitled to reimbursement of the Application filing fee, pursuant to s. 72 of the *Act*?

### Background and Evidence

The Landlord provided a copy of the tenancy agreement and both parties in the hearing confirmed the basic details therein. The tenancy started on December 15, 2019 and shifted to a month-to-month arrangement after the first 11 months. The rent amount of \$2,600 did not

increase over the duration of the tenancy. The Tenant paid a security deposit of \$1,300 and a pet damage deposit of \$1,300. A signed addendum to the agreement provides for yearly carpet cleaning where the Tenant has a pet living in the home, and carpet cleaning at the end of the tenancy. The addendum also provided for no smoking in the rental unit, no painting without prior approval, and the requirement for a tenant to obtain the Landlord's approval for a pet.

The parties met together at the start of the tenancy to view the condition of the rental unit. The Landlord provided a copy of the Condition Inspection Report for the meeting on December 16, 2019. The Tenant signed their agreement that "this report fairly represents the condition of the rental unit."

The tenancy ended on July 31, 2021. This was pre-arranged between the parties because of a contract for purchase and sale. The Landlord provided a copy of that agreement, dated May 31, 2021.

The Landlord and Tenant met to review the condition of the rental unit however, the initial meeting was not completed on July 31 as scheduled. That meeting was tense and, according to the Landlord, the Tenant left the meeting abruptly. The parties met again on August 2, after the Landlord reviewed the condition of the unit independently. The Condition Inspection Report (the "report") contains the Landlord's notations on what they observed. The Tenant indicated on page 3 they did not agree with the content of the report and did not sign the document.

The Landlord focused their claim on what they alleged were damages to the rental unit. They listed the separate items in the claim in the Monetary Order Worksheet they signed and dated on August 10, 2021:

#	Items	\$ claim
1	prepared evidence for hearing	94.08
2	window/patio screens	162.40
3	stain for handrail	12.96
4	cleaning	808.50
5	home repairs	1,092.00
6	carpet removal, work on floors	682.50
7	carpet install	971.25
8	repair/repaint door/stairwell/	525.00
9	drain cleaner/cleaning supplies/toilet seat/door handle	159.07
10	paint for 2 bedrooms off stairwell/door	99.05

11	carpet and underlay	3,198.72
12	2 days extra of rent	167.74
Total		<b>7,974.27</b>

I reviewed the claim line-by-line in the hearing. The Landlord presented their receipts and gave a description of their rationale for claiming these amounts from the Tenant. The Tenant presented their recollection of the state of the rental unit when the tenancy ended.

- 1 The Landlord presented this as the cost of preparing materials for this hearing, complete sets to the Tenant and 1 set to the Residential Tenancy Branch. An invoice dated August 9 shows this completed transaction amount. In total, the Landlord provided 164 separate photos showing detailed points in the rental unit.
- 2 The Landlord provided this amount for 3 screens. The invoice dated August 3, 2021 shows this completed transaction for 2 window screens of 2 sizes, and 1 "remesh patio slider". The Landlord provided this was for each of the dining room, the patio door, and one of the bedrooms. None of the pictures provided show this damage. The Tenant stated their recollection of the downstairs resident's dog causing damage to the patio slider, the dining room screen was bent from cleaners, and they could not recall specifically any problem with the bedroom screen.
- 3 The Landlord presented that there was a person's name carved into the handrail, and a lot of scratching from the Tenant's pet. The Tenant acknowledged this damage, where their child did it with pen and they tried to clear it away. The Landlord's photos #25 and #26 show this damage.
- 4 The cleaning was handled by the Landlord's own cleaning company at the end of the tenancy. The Landlord provided numerous photos showing the cleaning needed in the rental unit. One example they gave was taking a toothpick to the floorboards throughout to retrieve accumulated dirt. They also needed to wash the walls throughout the rental unit.

The invoice that the Landlord provided has 22 hours of cleaning total at a rate of \$35 per hour. The Landlord's photos show, to varying extents, the patio area, marked and stained walls, casing, the staircase, the entryway floor, a tiled floor area with pet urine, an unclean bathroom, and window sills throughout. There is also a dirty walk-in closet, a full and unclean kitchen freezer, and dirty appliances. This is virtually every spot in the rental unit needing clean to some degree.

The Tenant responded to say they had very little time at the end of the tenancy to ensure proper cleaning.

- 5 The Landlord presented a single invoice for this item, showing hours of work involved in each separate task for repair. The invoice also includes amounts for raking the backyard, and sweeping and cleaning the garage. The Landlord, being one and the same entity as the contractor here, included time at \$65 per hour for pick up and drop-off of certain items purchased for repair, and time to purchase paint for the painter.

To rebut this evidence, the Tenant noted the toilets were stained when they moved in, and the Tenant on their own informed the Landlord earlier about a broken door handle. Additionally, the towel bar was always falling off in the rental unit during the tenancy. The Tenant also queried the amount of time involved on individual work involved with repair, giving 3 hours to pick up paint as an example of an excessive charge recorded here.

- 6 The Landlord provided an invoice dated August 3, 2021, for carpet removal in 4 bedrooms, including the underlay. The cleaning and restoration company that handled this job also applied "deodorizing and bacterial killer" and applied primer to 4 bedrooms and the staircase. They presented that the carpet was "full of nail polish and feces" and this also impacted the plywood underneath the carpeting in certain areas within the rental unit. A number of the Landlord's photos show affected areas with close-up images of the nature of the stain. On the report, the Landlord noted "carpets are needing replaced in blue room & master closet" and, separately, "replace all carpets".

The Tenant answered to this in the hearing to say that the carpet in one of the rooms (shown with blue walls in the photos) absolutely needed replacing. They stated they made this agreement with the Landlord at the end of the tenancy. They acknowledged that though their pets were trained, they did cause some damage in isolated areas of the carpet, such as a closet. They maintained that their pets did not have "accidents" resulting in soiled and stained carpets. They disagreed that putting pet stains that were present in the carpet for around 10 years should be put onto to them as being the party responsible for the state of the carpets within the rental unit.

- 7 The Landlord provided an invoice dated August 5, 2021 for carpet installation. This shows the amount of \$971.25 as paid.
- 8 The Landlord also provided that painting was needed in certain rooms of the rental unit. This was due to areas of paint stripped within the rental unit, and areas stained with nail

polish in the child's bedroom. The Landlord provided several photos to show this in their evidence. The invoice dated August 7, 2021 shows \$525 paid for painting of three bedrooms and the stairwell.

As with other items listed, the Tenant queried why they should have to pay for repainting where there were "minor scuffs and picture hangers" involved in discrete areas on the walls in the rental unit.

- 9 The Landlord provided a receipt for \$78.24 worth of cleaning supplies, and another for 2 toilet seats and 1 door handle in the amount of \$80.83.
- 10 The Landlord presented their invoice for paint purchased on August 3, 2021. This was three cans of paint in total.
- 11 The Landlord provided an invoice for replacement carpet and underlay, in the amount of \$3,198.72. This is dated August 5, 2021.
- 12 The Landlord presented that the tenancy had not ended on July 31 with the final inspection meeting. They discovered important personal items left by the Tenant in the rental unit, then contacted them for that reason. When the parties met again on August 2, the Landlord presented the report outlining their evaluation of the rental unit to the Tenant. The Landlord added a per diem for the extra days they were dealing with the tenancy. Presumably they are seeking the rent for the time the Tenant had personal items left behind and had not finalized the condition inspection discussion/sign-off. In the hearing, the Landlord stated that "we were hoping that extra care would be added with a little extra time."

### 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, all of the Landlord's claim is for renewing the state of the rental unit to what it was pre-tenancy. In regard to each separate item listed above:

- 1 The *Act* does not provide for recovery of costs associated with a party preparing for a hearing, and that is entirely the decision of the party providing evidence how they choose to do so. The cost of preparing evidence is not recoverable. I dismiss this portion of the Landlord's claim.
- 2 I am not satisfied on the legitimacy of the claim for screens where the Landlord did not present evidence actually showing damage to the screens making them unusable or beyond repair. There are no photos showing that damage. Without evidence, I am not satisfied of the need for their replacement due to an unclean or damaged state. I dismiss this piece of the Landlord's claim for this reason.
- 3 The Tenant acknowledged this damage in the hearing. I am satisfied it is damage that is beyond reasonable wear and tear. I grant the Landlord recovery of this cost to them for unreasonable damage to the handrail.
- 4 I find it more likely than not some of the necessary cleaning – namely, those involving walls and carpeting – were subsumed into other work the Landlord undertook to complete within a short timeframe after the Tenant moved out at the end of July 2021. Certainly, the photos show a significant amount of cleaning involved in virtually every space in the rental unit; however, work running concurrently on a different scale required cleanup portions on its own and I have reduced the Landlord's claim on this accordingly. Given the level of cleaning involved I find \$600 is adequate recompense to the Landlord for this piece of their claim. This is without a detailed list of cleaning provided by the Landlord for strict day-by-day accounting, yet at the same time understanding that cleaning was a laborious process and the finding that the Tenant did not manage to accomplish any cleaning of the rental unit at the end of the tenancy.
- 5 As above, I am not satisfied of any of the work involving screens. Overall, the hours billed for pick up are excessive and do not represent an effort at minimizing the costs. Pick-up and travel time to/from the rental unit is not a cost to be borne by the Tenant. This contractor company is that belonging to the Landlord. I find their own travel time to

pick up materials involved with the ownership of the rental unit is simply a cost they must bear as owners of the property. Additionally, being the owner of a contracting company ensures tools and materials are readily at hand and should not involve a separate system for adding costs in the same way an outside contractor would charge for such work.

In sum, I am not satisfied the work involved is that in-depth or outside the range of the Landlord's own skill set and should properly be minimal costs to them overall. That is not what is reflected in the invoice they provided for this separate line item. Additionally, the Landlord provided that their own company handled the cleaning throughout the rental unit and property; it is untenable that the construction portion of the work involved raking the lawn and cleaning the deck and cleaning the garage – that is not proper construction work.

I dismiss this piece of the Landlord's claim because they did not minimize the costs and expenses to maintain the rental unit.

- 6 I find the photos show excessive staining to carpets in the majority of areas in the rental unit. The Tenant acknowledged this in the hearing. The odours as alleged are of course unquantifiable in a teleconference hearing with paper-based evidence; however, I find it more likely than not, given the excessive unclean state throughout the rental unit, that pet damage caused a significant problem throughout the rental unit. Additionally, the carpets are stained black. This warrants the complete replacement of carpeting throughout the rental unit. I so award all expenses associated with replacement of the carpet to the Landlord as claimed. This includes this \$682.50 portion.
- 7 As above, I award the amount for carpet installation to the Landlord. This is \$971.25.
- 8 I find the evidence shows the rental unit needed repainting. This is beyond reasonable wear and tear, considering the relatively shorter-term duration of this tenancy. The pictures show markings and other flaws on the walls that I find were not attributable to friction or other residual wear and tear; what is shown are deliberate markings on the walls requiring refinishing. This was a substantial paint job for which the Tenant is responsible. I so award the Landlord the amount of \$525.00 as presented in this part of their claim.
- 9 The Tenant presented that there were extant deficiencies in the rental unit since the start of the tenancy. I accept the Tenant's recollection on certain of these points as

raised in the hearing, and find they brought certain of these items to the attention of the Landlord during the tenancy. Though relatively minor, the Landlord did not attend to the matter of the missing doorknob or other deficiencies during the tenancy. This would have minimized the impact of expenses to them at the end of the tenancy. This includes materials purchased for repair at the end of the tenancy as provided for in this cost and for this reason I dismiss this piece of the Landlord's claim. I dismiss the claim for cleaning products cost and find it reasonable the Landlord was able to use their own materials for the purpose of cleaning, in line with them operating their own cleaning company that invoiced for the large amount of cleaning here.

- 10 As above, I find the cost of paint associated with the need for painting shall be borne by the Tenant here. I award this \$99.05 amount to the Landlord.
- 11 As above, I award the expense for purchase of new carpet in the rental unit to the Landlord. This is \$3,198.72 for new carpet and underlay. The evidence shows neglect for carpet care throughout, and I find this was due to the actions of the Tenant during the tenancy.
- 12 I find the Landlord chose on their own initiative to afford the Tenant extra time in the rental unit. I find the Landlord did not communicate to the Tenant that two extra days were available to further clean the rental unit. The premise for a tenancy is that of an agreement between the parties, with the consideration being payment of rent. I find the two extra days were imposed by the Landlord, without the Tenant's consent or awareness of the available time for extra cleaning. I find the whole reason for the Tenant's return two days later was to retrieve personal items left behind, and that is the only reason the landlord-tenant relationship existed for those extra two days. I dismiss this piece of the Landlord's claim for this reason.

In total, I find the Landlord has established a claim of \$6,089.48. This is based on a review of the available evidence and the parties' testimony.

The *Act* s. 72(2) gives an arbitrator the authority to make a deduction from the security deposit held by a landlord. The Landlord here has established a claim of \$6,089.48. After setting off the security deposit and the pet damage deposit, there is a balance of \$3,489.48. I am authorizing the landlord to keep the security deposit and pet damage deposit amounts and award the balance of \$3,489.48 as compensation for the rental unit damage claim.

Because the Landlord was for the most part successful in their claim, I find they are eligible for reimbursement of the Application filing fee. I add this fee to the Monetary Order.



Conclusion

Pursuant to s. 67 and 72 of the *Act*, I grant the Landlord a Monetary Order in the amount of \$3,589.48 for compensation set out above and the recovery of the filing fee for this hearing application. I provide this Monetary Order in the above terms and the Landlord must serve the Monetary Order to the Tenant as soon as possible. Should the Tenant fail to comply with the Monetary Order, the Landlord may file it 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: March 10, 2022

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Residential Tenancy Branch