



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, MNDCL-S, FFL

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on July 11, 2021 (the “Application”). The Landlord applied as follows:

- For compensation for damage to the rental unit
- For compensation for monetary loss or other money owed
- To keep the security deposit
- For reimbursement for the filing fee

This matter came before me February 07, 2022, and February 15, 2022, and Interim Decisions were issued February 08, 2022, and February 16, 2022. This decision should be read with the Interim Decisions.

The Landlord appeared at the hearing with the Witness. The Witness exited the conference call until required. The Tenant appeared at the hearing. I explained the hearing process to the parties. I told the parties they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The parties and Witness provided affirmed testimony.

The Tenant confirmed receipt of the Landlord’s evidence and confirmed there was no issue with service.

The parties were given an opportunity to present relevant evidence and make relevant submissions. I have considered all testimony provided and reviewed the documentary evidence submitted. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Landlord entitled to compensation for damage to the rental unit?
2. Is the Landlord entitled to compensation for monetary loss or other money owed?
3. Is the Landlord entitled to keep the security deposit?
4. Is the Landlord entitled to reimbursement for the filing fee?

Background and Evidence

The Landlord sought the following compensation:

Item	Description	Amount
1	Hardwood floor repair	\$1,890.00
2	Carpet replacement	\$1,022.23
3	Carpet cleaning	\$210.00
4	Bathroom counter	\$423.00
5	Damaged ceiling fans	\$589.43
6	Cleaning supplies	\$20.92
7	Door knob	\$69.24
8	Paint	\$97.62
9	Wall and door repair	\$490.00
10	7 days of lost rent	\$530.00
11	Filing fee	\$100.00
	<b>TOTAL</b>	<b>\$5,442.44</b>

A written tenancy agreement was submitted as evidence and the parties agreed it is accurate. The tenancy started August 01, 2018, and was for a fixed term ending July 31, 2019. Rent was \$1,950.00 due on the first day of each month. The Tenant paid a \$975.00 security deposit.

The parties agreed the tenancy ended June 30, 2021.

The parties agreed the Tenant did not provide the Landlord a forwarding address in writing.

A Condition Inspection Report (the "CIR") was submitted by the Landlord. The Landlord testified that the CIR is accurate. The Tenant testified that things were written on the CIR after they signed it.

***#1 Hardwood floor repair \$1,890.00***

The Landlord sought compensation for the cost of refinishing hardwood floors in the rental unit due to damage caused by dogs in the rental unit. The Landlord testified that the floors were new in 2010.

The Tenant testified that there were dogs in the rental unit prior to their tenancy and that there was damage to the hardwood floors at the start of the tenancy. The Tenant testified that dogs were only in the rental unit on a temporary basis. The Tenant pointed out that they lived in the rental unit for three years.

The Landlord denied that dogs lived in the rental unit previously.

***#2 Carpet replacement \$1,022.23***

The Landlord sought compensation for replacing carpet in the bedrooms due to urine stains on them. The Landlord testified that the carpet was new in 2010.

The Tenant denied that there were stains on the carpet in the upstairs of the rental unit.

***#3 Carpet cleaning \$210.00***

The Tenant agreed to pay for carpet cleaning.

***#4 Bathroom counter \$423.00***

The Landlord sought compensation for damage to the bathroom countertop. The Landlord testified that the countertop was in good shape at the start of the tenancy and was new in 2010. The Landlord testified that the cost claimed is to replace the countertop.

The Tenant stated that they had difficulty picturing this issue without the CIR to remind them. At this point the hearing was adjourned for the Landlord to send the Tenant the CIR, which the Landlord did. I asked the parties at the outset of the reconvened hearing if they had anything to add to the issues already covered and the Tenant did not provide further submissions on this issue.

***#5 Damage ceiling fans \$589.43***

The Landlord sought compensation for replacing two fans, one in the living room and one in the master bedroom, which were broken at the end of the tenancy.

The Tenant testified that both fans were working and were on when they left the rental unit.

***#6 Cleaning supplies \$20.92***

The Landlord sought compensation for the cost of cleaning supplies to clean the rental unit which was left dirty at the end of the tenancy.

The Tenant testified that they agree the oven required cleaning but that everything else in the rental unit was clean.

***#7 Door knob \$69.24***

The Landlord sought compensation for replacing broken door knobs in the rental unit.

The Tenant testified that the door knobs were not broken when they left the rental unit and that the CIR did not say the door knobs were broken when they signed it.

***#8 Paint \$97.62***

The Landlord sought compensation for purchasing paint to paint the rental unit and testified that it was last painted in 2018.

The Tenant testified that they fixed any damage to the walls of the rental unit. The Tenant questioned whether the rental unit was painted before they moved in but did acknowledge it was in good condition at the start of the tenancy.

***#9 Wall and door repair \$490.00***

The Landlord sought compensation for repairs of wall damage and damage to doors in the rental unit. The Landlord testified that their husband did the repairs. The Landlord relied on photos in evidence to show the damage.

The Tenant testified that there was only one issue with the walls, the TV mount, and that the Landlord did not take issue with this during the inspection. The Tenant testified that the CIR has been altered since they signed it.

***#10 7 days of lost rent \$530.00***

The Landlord sought compensation for lost rent for the seven days it took to complete repairs in the rental unit.

The Tenant testified that they left the rental unit early because they knew the Landlord was going to do some things in the rental unit prior to the next tenant moving in.

***Witness***

The Witness testified as follows. There were a lot of repairs to do to the rental unit at the end of the tenancy. There was damage to the hardwood floors. There were two bedroom doors that were damaged. There was damage to the bathroom countertop. The carpet in the bedroom had to be replaced due to urine stains from dogs. There was damage to the walls of the rental unit that had to be painted and touched up. It took time to do the repairs and the Landlord lost a weeks worth of rent because of this.

***Documentary Evidence***

The Landlord submitted documentary evidence which I will reference below as necessary.

Analysis

***Security deposit***

Sections 38 and 39 of the *Act* states:

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

39 Despite any other provision of this Act, if a tenant does not give a landlord a forwarding address in writing within one year after the end of the tenancy,

- (a) the landlord may keep the security deposit or the pet damage deposit, or both, and
- (b) the right of the tenant to the return of the security deposit or pet damage deposit is extinguished.

The parties agreed the Tenant did not provide the Landlord a forwarding address in writing. Given this, section 38(1) of the *Act* has not been triggered and the Landlord was entitled to claim against the security deposit when the Application was filed.

### ***Compensation***

Section 7 of the *Act* states:

7 (1) If a...tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying...tenant must compensate the [landlord] for damage or loss that results.

(2) A landlord...who claims compensation for damage or loss that results from the [tenant's] non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Policy Guideline 16 deals with compensation for damage or loss and states in part the following:

It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

Section 37(2) of the *Act* states:

(2) When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear...

Pursuant to rule 6.6 of the Rules, it is the Landlord as applicant who has the onus to prove the claim. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

I accept that the CIR is accurate as to the state of the rental unit at the end of the tenancy. Issues noted in the CIR are also shown in the photos submitted and therefore I find the photos support the accuracy of the CIR. Some of the lines of the CIR with comments about damage are blank under the "code" column and therefore to accept the Tenant's testimony that these comments were written after they signed the CIR would be to accept that the parties left some of the lines of the CIR blank. I find it unlikely that the parties left some of the lines of the CIR blank, and that the Tenant signed the CIR with some lines blank, because this would have defeated the whole purpose of the move-out inspection.

**#1 Hardwood floor repair \$1,890.00**

The CIR shows there was regular wear and tear on the living room floor at the start of the tenancy. The CIR also states at page 3 of 4 that the Tenant agreed with the CIR but that “hardwood floors had existing damage from dog prior to move in”. Based on the CIR, I find there was damage to the hardwood floors at the start of the tenancy. The Landlord did not submit photos of the hardwood floors from the start of the tenancy and therefore I do not know what the floors looked like at that point. The Landlord submitted photos of the hardwood floors at the end of the tenancy; however, I do not know what damage was there at the start of the tenancy and therefore I do not know what damage the Tenant caused. In the absence of further evidence, I am not satisfied the Tenant damaged the floors beyond reasonable wear and tear and dismiss this claim without leave to re-apply.

**#2 Carpet replacement \$1,022.23**

Based on the CIR, I accept that the carpet in one of the bedrooms was fine on move-in and stained on move-out. The CIR states, “2ND BDM HAS CARPET STAINS” under the move-in column of the CIR and therefore I am not satisfied the carpet in the second bedroom was fine on move-in. The Landlord submitted four photos of carpet stains but these are not labelled and I cannot tell which bedroom they relate to. I do accept that the Tenant is responsible for staining in one of the bedrooms and find this to be a breach of section 37 of the Act. However, I do not accept that the staining required replacement of the carpet because the staining is not severe in size or color. Further, I cannot determine an appropriate compensation amount for the staining caused by the Tenant because I do not know which photos relate to the staining caused by the Tenant versus staining that was present at the start of the tenancy.

Policy Guideline 16 states:

An arbitrator may also award compensation in situations where establishing the value of the damage or loss is not as straightforward:

- “Nominal damages” are a minimal award. Nominal damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right.



I award the Landlord nominal damages of \$25.00 for this item because I am satisfied the Tenant breached section 37 of the *Act* but am not satisfied any significant loss has been proven.

**#3 Carpet cleaning \$210.00**

The Tenant agreed to pay for carpet cleaning and therefore the Landlord is awarded this amount.

**#4 Bathroom counter \$423.00**

Based on the CIR, I find there was no counter damage in the bathrooms on move-in and was damage at move-out and therefore I accept that the Tenant caused the damage to the countertop. Based on the photo, I find the damage to be beyond reasonable wear and tear given its size, color and location and find the Tenant breached section 37 of the *Act*. I am satisfied the Landlord had to replace the countertop due to the damage. I am satisfied based on the written note in evidence that the replacement cost for the countertop was \$423.00. I accept that the countertop was new in 2010 and find the Landlord had 11 ½ years of use of the countertop by the end of the tenancy. Policy Guideline 40 sets out the useful life of building elements and states that the useful life of counters is 25 years. Taking this into account, I award the Landlord \$228.42 for the countertop replacement.

**#5 Damage ceiling fans \$589.43**

Based on the CIR, I accept that the fan in the living room was fine on move-in and that the fan globe was broken on move-out. I do not see where a second fan is noted as damaged on the CIR and there are no photos of broken fans. I accept the Tenant breached section 37 of the *Act* in relation to the one broken ceiling fan. I accept that the Landlord had to replace the fan. The receipts for the fan submitted are for multiple items and it is not clear what items are fans, other than the notation "Fan/Light" which cost \$44.97. I award the Landlord \$50.37 for the fan which is the cost noted plus tax.

**#6 Cleaning supplies \$20.92**

I accept based on the CIR and photos that areas of the rental unit required cleaning at the end of the tenancy and therefore the Tenant breached section 37 of the *Act*. I award the Landlord the amount sought for this item because it is exceptionally

reasonable even if only the oven required cleaning, which the Tenant acknowledged it did. The Landlord is awarded \$20.92.

**#7 Door knob \$69.24**

I do not see where on the CIR it shows that there were broken door knobs at the end of the tenancy and therefore, I am not satisfied the Tenant broke doors knobs and dismiss this claim without leave to re-apply.

**#8 Paint \$97.62**

The CIR shows that four areas of “walls/trim” were fine on move-in and “fair” at move-out. I am satisfied based on the photos that the damage to the walls was beyond reasonable wear and tear given the number of damaged areas and size of some of the areas. I accept that the Tenant breached section 37 of the *Act* in this regard. I am satisfied the Landlord had to re-paint the rental unit. I am satisfied based on the receipts submitted that the Landlord purchased paint which cost \$97.62. However, the paint in the rental unit was 3 ½ years old at the end of the tenancy and the useful life of paint is 4 years (see Policy Guideline 40). Accounting for the useful life of paint, I award the Landlord \$12.20 for this item.

**#9 Wall and door repair \$490.00**

I do not see where on the CIR it shows the Tenant damaged doors and therefore, I do not accept that the Tenant did. I have already accepted that the Tenant breached section 37 of the *Act* in relation to wall damage and therefore I am satisfied the Landlord is entitled to compensation for repairing the walls. I am satisfied based on the receipt in evidence that it cost \$350.00 to repair the walls and I find this amount reasonable. I award the Landlord \$350.00.

**#10 7 days of lost rent \$530.00**

I decline to award the Landlord for seven days of lost rent. I do not find that the photos support that the rental unit was left in a state that required seven days worth of cleaning and repairs. This claim is dismissed without leave to re-apply.

**#11 Filing fee \$100.00**

Given the Landlord was partially successful in the Application, I award the Landlord reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the *Act*.

**Summary**

In summary, the Landlord is entitled to the following:

Item	Description	Amount
1	Hardwood floor repair	-
2	Carpet replacement	\$25.00
3	Carpet cleaning	\$210.00
4	Bathroom counter	\$228.42
5	Damaged ceiling fans	\$50.37
6	Cleaning supplies	\$20.92
7	Door knob	-
8	Paint	\$12.20
9	Wall and door repair	\$350.00
10	7 days of lost rent	-
11	Filing fee	\$100.00
	<b>TOTAL</b>	<b>\$996.91</b>

The Landlord can keep the \$975.00 security deposit pursuant to section 72(2) of the *Act*. The Landlord is issued a Monetary Order for the remaining \$21.91 pursuant to section 67 of the *Act*.

**Conclusion**

The Landlord is entitled to \$996.91. The Landlord can keep the \$975.00 security deposit. The Landlord is issued a Monetary Order for the remaining \$21.91. This Order must be served on the Tenant. If the Tenant fails to comply with this Order, it 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 *Act*.

Dated: April 08, 2022

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Residential Tenancy Branch