



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

**Dispute Codes**      MNRL-S, MNDL-S, FFL

### **Introduction**

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord May 09, 2022 (the “Application”). The Landlord applied as follows:

- For compensation for damage to the rental unit
- To recover unpaid rent
- To keep the security deposit
- For reimbursement for the filing fee

The Landlord and Tenants 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 provided affirmed testimony.

The Landlord submitted evidence prior to the hearing. The Tenants did not submit evidence. I addressed service of the hearing package and Landlord’s evidence, and the Tenants confirmed receipt of these.

The parties were given an opportunity to present relevant evidence and make relevant submissions. I have considered all evidence provided. 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 recover unpaid rent?
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	4 Blinds destroyed by dogs	\$431.20
2	Flooring Planks to replace damaged floors	\$22.75
3	Batteries for smoke detectors	\$15.66
4	Window Screen	\$32.00
5	Light Bulbs	\$33.57
6	2 Professional Cleaners with supplies \$65 hr X 16.5 hrs	\$1,072.50
7	Carpenter	\$910.00
8	Landfill fees	\$22.95
9	Landfill fees	\$23.60
10	1-800-gotjunk	\$260.40
11	Refrigerator Crisper	\$160.16
12	Refrigerator door bracket	\$56.31
13	Range hood fan	\$42.53
14	Postage to forward Beach Body Package	\$13.18
15	My time 40 hours @ \$25	\$1,000.00
16	Unpaid rent	\$1,100.00
17	Filing fee	\$100.00
	<b>TOTAL</b>	<b>\$5,296.81</b>

The Landlord submitted a written tenancy agreement with the following details. A start date of August 01, 2017. A month-to-month tenancy. Rent \$1,100.00 per month due on the first day of each month. A \$550.00 security deposit.

The Tenants testified that they never saw a written tenancy agreement. The parties agreed the tenancy started mid July 2017. The parties agreed with the remainder of the details in the written tenancy agreement.

The Landlord testified that the Tenants moved out of the rental unit April 23, 2021. The Tenants testified that they moved out of the rental unit April 16, 2021.

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

The Landlord acknowledged they did not have an outstanding Monetary Order against the Tenants at the end of the tenancy and the Tenants did not agree to the Landlord keeping the security deposit.

The Landlord testified that no move-in inspection was done and the Tenants were not offered two opportunities to do a move-in inspection. The Landlord testified that everything in the rental unit was brand new at the start of the tenancy.

The Tenants agreed that no move-in inspection was done and they were not offered two opportunities to do a move-in inspection. The Tenants testified that renovations and construction were ongoing in the rental unit when they moved in but agreed that at some point this ended, and the rental unit was in good condition.

The Landlord testified that the parties did not do a move-out inspection together but that the Landlord did one on their own and completed the Condition Inspection Report ("CIR") submitted.

The Tenants agreed the parties did not do a move-out inspection together.

***#1 4 Blinds destroyed by dogs \$431.20***

The Landlord sought this amount for blinds that were new at the start of the tenancy and destroyed at the end of the tenancy. The Landlord referred to photos in evidence. The Landlord testified that they replaced the damaged blinds and referred to a receipt in evidence.

The Tenants acknowledged their dogs destroyed blinds in the rental unit.

***#2 Flooring Planks to replace damaged floors \$22.75***

The Landlord sought this amount for bedroom flooring that was new on move-in and gouged and ruined at move-out. The Landlord referred to photos submitted. The Landlord testified that they were able to purchase a box of matching floor planks to replace the damaged floor planks so are only seeking the cost of this.

The Tenants testified that the floor was in good condition when they moved out and denied that any flooring needed to be replaced.

**#3 Batteries for smoke detectors \$15.66**

The Landlord sought this amount for replacing dead batteries in three smoke detectors at the end of the tenancy.

The Tenants testified that they did not know batteries were dead in the smoke detectors when they moved out.

**#4 Window Screen \$32.00**

The Landlord sought this amount for damage to window screens caused by the Tenants' dogs ripping the mesh part of the screen. The Landlord testified that they had the mesh in the screens replaced and referred to photos and receipts in evidence.

The Tenants denied that their dogs ripped the mesh in the window screens and suggested that maybe someone tried to break into the rental unit and their dogs stopped the person which caused the damage.

**#5 Light Bulbs \$33.57**

The Landlord sought this amount for replacing burnt out light bulbs at the end of the tenancy.

The Tenants denied that light bulbs were burnt out at the end of the tenancy.

**#6 2 Professional Cleaners with supplies \$65 hr X 16.5 hrs \$1,072.50**

The Landlord sought this amount for having to hire cleaners to clean the rental unit at the end of the tenancy because the Tenants did not leave it reasonably clean. The Landlord relied on photos and a receipt in evidence.

The Tenants testified that they did clean the rental unit other than areas that had been sprayed for insects which they had to leave so the chemicals worked. The Tenants submitted that the photos provided by the Landlord must have been taken before they finished moving out because they did not leave personal items in the rental unit.

**#7 Carpenter \$910.00**

The Landlord sought this amount for having to hire a carpenter to repair damaged walls, repair damaged flooring as well as load junk and haul it to the dump. The Landlord testified that the carpenter was at the rental unit for a month helping to get it back in a condition that it could be rented again.

The Tenants denied that there was wall damage at the end of the tenancy.

**#8 Landfill fees \$22.95**

**#9 Landfill fees \$23.60**

The Landlord sought these amounts for the cost of dumping items the Tenants left in and around the rental unit at the end of the tenancy.

The Tenants testified that they only left two couches in the rental unit and that the Landlord said they would take the couches out of the rental unit. The Tenants testified that they cleaned the garage and yard prior to moving. The Tenants testified that all of the items in the photos were removed by 1-800-JUNK.

**#10 1-800-gotjunk \$260.40**

The Landlord sought this amount for the cost of hiring 1-800-JUNK to remove items the Tenants left behind, some of which the dump would not take. The Landlord referred to photos showing the 1-800-JUNK employees removing items from the driveway.

The Tenants testified that they did not leave items behind in or around the rental unit, other than the two couches inside. The Tenants testified that they left items outside for 1-800-JUNK to pick up; however, the company did not come and pick it up. The Tenants agreed that because of this, the Landlord then had to hire someone to remove the items.

**#11 Refrigerator Crisper \$160.16**

The Landlord sought this amount for the cost of replacing a fridge crisper that was new on move-in and smashed on move-out. The Landlord relied on a photo and receipt in evidence.

The Tenants denied that the fridge crisper was damaged when they moved out.

**#12 Refrigerator door bracket \$56.31**

The Landlord sought this item for the cost of replacing a broken bracket in the fridge at the end of the tenancy. The Landlord relied on photos in evidence.

The Tenants testified that they were not aware the fridge bracket was broken at the end of the tenancy.

**#13 Range hood fan \$42.53**

The Landlord testified that the hood fan was full of grease and blocked up at the end of the tenancy. The Landlord testified that the state of the fan caused the motor to die, and this had to be replaced. The Landlord testified that the fan was new at the start of the tenancy.

The Tenants testified that the hood fan was working the last time they used it.

**#14 Postage to forward Beach Body Package \$13.18**

The Landlord sought this item for the cost of forwarding a mail package to the Tenants at a cost of \$13.18.

The Tenants agreed to pay the Landlord for this item.

**#15 My time 40 hours @ \$25 \$1,000.00**

The Landlord sought this amount for the time they spent cleaning the rental unit and yard, repairing broken and damaged items, removing couches and taking items to the dump.

The Tenants disputed that they should have to pay the Landlord this amount.

**#16 Unpaid rent \$1,100.00**

The Landlord testified that they received notice ending the tenancy from the Tenants on April 02, 2021. The Landlord submitted that the Tenants' notice ending the tenancy was effective May 31, 2021; however, the Tenants did not pay May rent.

The Tenants agreed they gave notice ending the tenancy on April 02, 2021. The Tenants agreed they did not pay May rent.

### ***Documentary Evidence***

The Landlord submitted photos of the rental unit, videos of the rental unit and the CIR.

### **Analysis**

#### ***Security deposit***

Under sections 24 and 36 of the *Act*, landlords and tenants can extinguish their rights in relation to the security deposit if they do not comply with the *Act* and *Regulations*. Further, section 38 of the *Act* sets out specific requirements for dealing with a security deposit at the end of a tenancy.

Based on the testimony of the parties, I find a move-in inspection was not done and the Tenants were not offered two opportunities to do a move-in inspection. Given this, the Tenants did not extinguish their rights in relation to the security deposit. Further, the Landlord did extinguish their right to claim against the security deposit solely for damage to the rental unit. Given the Landlord extinguished their right to claim against the security deposit solely for damage to the rental unit under section 24(2) of the *Act*, there is no need to consider whether the parties extinguished their rights in relation to the security deposit under section 36 of the *Act*.

The parties disagreed about when the Tenants moved out of the rental unit. The only documentation addressing the move-out date before me is the CIR which the Landlord completed stating the Tenants moved out April 26, 2021. Given this, I accept that the Tenants moved out later in the month and accept the Landlord's testimony that they moved out April 23, 2021. This tenancy ended April 23, 2021, when the Tenants moved out.

There is no issue that the Tenants did not provide the Landlord with their forwarding address in writing.

Pursuant to section 38(1) of the *Act*, the Landlord had 15 days from the later of the end of the tenancy or the date the Landlord received the Tenants' forwarding address in writing to repay the security deposit or file a claim against it for something other than damage to the rental unit. Here, section 38(1) of the *Act* has not been triggered

because the Tenants have not provided the Landlord with their forwarding address in writing. Given this, the Landlord was allowed 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.

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.

The amounts claimed in the Application and Monetary Order Worksheet are different; however, I have considered the amounts claimed in the Monetary Order Worksheet because they are clearly set out and it appears the Landlord simply made a calculating error.



**#1 4 Blinds destroyed by dogs \$431.20**  
**#2 Flooring Planks to replace damaged floors \$22.75**  
**#4 Window Screen \$32.00**  
**#6 2 Professional Cleaners with supplies \$65 hr X 16.5 hrs \$1,072.50**  
**#7 Carpenter \$910.00**  
**#8 Landfill fees \$22.95**  
**#9 Landfill fees \$23.60**  
**#10 1-800-gotjunk \$260.40**  
**#11 Refrigerator Crisper \$160.16**  
**#12 Refrigerator door bracket \$56.31**  
**#13 Range hood fan \$42.53**  
**#15 My time 40 hours @ \$25 \$1,000.00**

Section 37 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...

The parties disagreed about whether the rental unit and yard were left reasonably clean and undamaged at the end of the tenancy. I accept the Landlord's testimony about the state of the rental unit at the end of the tenancy because it is supported by photos, videos and the CIR whereas the Tenants have not provided any evidence to support their testimony about how they left the rental unit. Further, the Tenants acknowledged some of the issues stated by the Landlord such as damaged blinds and leaving items to be removed by junk removal. I find the Tenants' acknowledgements further support the Landlord's position about the state of the rental unit at the end of the tenancy. I also find some of the suggestions of the Tenants implausible such as that the window screens may have been ripped by someone trying to break into the rental unit and their dogs stopping the person thus causing damage. I find statements such as this call into question the weight I can give to the Tenants' testimony and submissions.

Given the above, and based on the photos, videos and CIR, I find the Tenants breached section 37 of the Act in relation to the following:

- leaving damaged blinds at end of the tenancy (item #1)
- leaving badly damaged bedroom floor at end of the tenancy (item #2)
- leaving ripped window screens at end of the tenancy (item #4)

- leaving the rental unit dirty at end of the tenancy (item #6)
- leaving the rental unit dirty and damaged such that the Landlord had to spend their time cleaning and repairing the rental unit and had to hire a carpenter to help clean and repair the rental unit (item #7 and #15)
- leaving items in and around the rental unit (items #8, #9 and #10)
- leaving the crisper and door bracket of the fridge broken at end of the tenancy (items #11 and #12)

I am not satisfied based on the evidence provided that the Tenants damaged the range hood fan (item #13) because there is no photo or video before me showing this. This claim is dismissed without leave to re-apply.

I accept that the Landlord, and others hired by the Landlord, had to clean and repair the rental unit due to the above noted breaches and that this cost the Landlord time and money.

In relation to the amount or value of the damage or loss, the Landlord referred to receipts throughout the hearing. I have reviewed the Landlord's documentary evidence and do not see receipts. However, the Tenants did not state during the hearing that they did not receive receipts from the Landlord despite the Landlord referring to receipts. Further, the Tenants did not dispute the amounts sought, they disputed that they left the rental unit dirty or damaged. In the circumstances, I accept that the amount or value of the damage or loss is as the Landlord has set out in their Monetary Order Worksheet. Although I find a few of the amounts sought high, such as the cleaning costs, carpenter costs and costs for the Landlord's time, I accept the calculations and amounts because the photos and videos show that the Tenants basically moved out of the rental unit without doing any cleaning, leaving the rental unit dirty and leaving numerous large items behind. When tenants up and leave a rental unit without cleaning it at all and leave their furniture and items behind, they can expect to incur high costs for others having to do what they should have done.

Given the above, I award the Landlord the amounts sought for items #1, 2, 4, 6, 7, 15, 8, 9, 10, 11 and 12.

### **#3 Batteries for smoke detectors \$15.66**

RTB Policy Guideline 01 sets out the responsibilities of parties in relation to maintenance of the rental unit and states:

#### **SMOKE DETECTORS**

1. If there are smoke detectors, or if they are required by law, the landlord must install and keep smoke alarms in good working condition. Regular maintenance includes:
  - annual inspection of the system
  - annual cleaning and testing of the alarm
  - replacing batteries at least annually and according to the manufacturer's instructions.
2. The tenant must not prevent the smoke alarm from working by taking out batteries and leaving them out, or by replacing them with batteries that are dead or the wrong size. For his or her own safety and the safety of others, the tenant must tell the landlord when a smoke alarm needs new batteries, or that it seems to need to be repaired or replaced.

The Landlord was responsible for replacing batteries in the smoke detectors and therefore is responsible for the cost of this. This claim is dismissed without leave to re-apply.

### **#5 Light Bulbs \$33.57**

RTB Policy Guideline 01 states:

#### **LIGHT BULBS AND FUSES...**

2. The tenant is responsible for:
  - Replacing light bulbs in his or her premises during the tenancy...

The Tenants were responsible for replacing burnt out light bulbs at the end of the tenancy. However, the Landlord has not submitted photos or videos of burnt out light

bulbs and therefore I am not satisfied the Tenants failed to address burnt out light bulbs at the end of the tenancy. This claim is dismissed without leave to re-apply.

**#14 Postage to forward Beach Body Package \$13.18**

The Tenants agreed to pay the Landlord for this item and therefore the Landlord is awarded the amount sought.

**#16 Unpaid rent \$1,100.00**

Section 45 of the *Act* sets out when tenants can end a month-to-month tenancy and states:

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Section 53 of the *Act* automatically corrects effective dates of notices to end tenancy that do not comply with the *Act*.

There is no issue that the Tenants gave notice ending the tenancy to the Landlord April 02, 2021. Pursuant to sections 45 and 53 of the *Act*, the notice was effective May 31, 2021, and the Tenants were required to pay rent up until this date. I acknowledge that the Landlord was required to mitigate their loss by trying to re-rent the unit; however, the Landlord testified during the hearing about how long it took to clean and repair the rental unit and therefore I accept that it is not reasonable to expect the rental unit to have been rented for May 01, 2021. I award the Landlord the amount sought.

**#17 Filing fee \$100.00**

Given the Landlord has been 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:

<b>Item</b>	<b>Description</b>	<b>Amount</b>
1	4 Blinds destroyed by dogs	\$431.20
2	Flooring Planks to replace damaged floors	\$22.75
3	Batteries for smoke detectors	-
4	Window Screen	\$32.00
5	Light Bulbs	-
6	2 Professional Cleaners with supplies \$65 hr X 16.5 hrs	\$1,072.50
7	Carpenter	\$910.00
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14	Postage to forward Beach Body Package	\$13.18
15	My time 40 hours @ \$25	\$1,000.00
16	Unpaid rent	\$1,100.00
17	Filing fee	\$100.00
	<b>TOTAL</b>	<b>\$5,205.05</b>

The Landlord can keep the \$550.00 security deposit pursuant to section 72(2) of the *Act*. The Landlord is issued a Monetary Order for the remaining \$4,655.05 pursuant to section 67 of the *Act*.

### **Conclusion**

The Landlord can keep the \$550.00 security deposit. The Landlord is issued a Monetary Order for the remaining \$4,655.05. This Order must be served on the Tenants. If the Tenants fail 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: February 15, 2023

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Residential Tenancy Branch