



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      MNDC MNSD FF

### Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on August 31, 2023. The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage to the unit, for damage or loss under the Act; and,
- authorization to retain all or a portion of the Tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38.

Both parties attended the first hearing, and it was adjourned to allow the Tenant's more time to sort of their divorce proceedings. The Tenants did not attend the second hearing. However, the Landlord attended both hearings. The Landlord stated that he sent each of the Tenants the Notice of Dispute Resolution Proceeding and evidence package by registered mail on September 2, 2022. Proof of mailing was provided in the hearing. Pursuant to section 90 of the Act, I find the Tenants are deemed served with these packages 5 days after they were sent on September 7, 2022.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Is the Landlord entitled to a monetary order for damage to the unit, for damage or loss under the Act?

- Is the Landlord authorized to retain all or a portion of the Tenant's security and pet deposit in partial satisfaction of the monetary order requested pursuant to section 38?

### Background and Evidence

The Landlord provided a monetary order worksheet to itemize what he is seeking in this application. The Landlord provided testimony, photos, and receipts for the items. The Landlord also provided a copy of the condition inspection report. The Landlord stated that they currently hold the Tenants' security deposit, totalling \$1,450.00.

The Landlord stated that the tenancy ended on or around July 31, 2022, and he received the Tenants' forwarding address in writing on August 6, 2022, via email. The Landlord applied against the deposit on August 14, 2022.

As per the Monetary Order Worksheet, there were 4 items in total, as follows:

- 1) \$330.75 – additional cleaning

The Landlord asserts that the rental unit was not left reasonably clean, and required additional cleaning of appliances, and various surfaces (flooring, cupboards, walls, sinks etc) prior to re-renting the unit. The Landlord provided an invoice for this item, as well as photos of some of the cleanliness issues.

- 2) \$472.50 – paint repair

The Landlord provided an estimate for this item, and stated that the work has since been completed. The work completed was to repaint affected areas of damaged walls and trim, and to fill holes left in the walls. The Landlord pointed to photos to show there were several larger dents and dings in the walls that required patching.

- 3) \$150.00 – Floor repair estimate

The Landlord acknowledged he did not provide any documentary evidence supporting this amount, but he asserts he was told this amount when he spoke with the contractor on the phone about repairing the dented flooring in the kitchen. The Landlord provided photos.

- 4) \$600.00 – strata fines

The Landlord provided copies of 3 different strata fines that were levied on the Landlord due to the Tenant's behaviour. The first was related to a series of noise complaints, leading up to March 4, 2022. The second was related to storing items improperly in their parking stall, leading up to May 9, 2022. The third was related to failing to wait for the parking gate to close before driving away, leading up to May 11, 2022. The Landlord stated that in all instances the Tenants were warned several times, and failed to correct their behaviour or dispute the issues with strata.

### Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*.

With respect to the security deposit, I find the Landlord applied within 15 days of receiving the Tenants forwarding address in writing, and has applied in time. I also find no evidence that either party extinguished their right to the return of the deposit.

Based on all of the above, the undisputed evidence and testimony, and on a balance of probabilities, I find as follows:

Residential Tenancy Policy Guideline #1 states the following:

*The tenant must maintain "reasonable health, cleanliness and sanitary standards" throughout the rental unit or site, and property or park. The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard. The tenant is also generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest. The tenant is not responsible for reasonable wear and tear to the rental unit*

I have reviewed the photos and I find the issues are minimal and I am not satisfied the Tenants failed to comply with reasonable health, cleanliness and sanitary standards. I decline to award this item.

With respect to the second item, I am satisfied that some of these holes and chips are beyond reasonable wear and tear, and I accept that some repairs and repainting would have been required after the tenancy. I award this item in full.

With respect to the third item, I find the Landlord has failed to sufficiently demonstrate the value of this loss. There is no corroborating evidence showing the cost of the repair or damage. I decline to award this item.

With respect to the fourth item, I am satisfied that these fines were incurred by the Landlord during this tenancy, as a result of the Tenants' conduct. I find the Tenants are liable for this item, in full.

Further, section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was substantially successful with the application, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

Also, pursuant to sections 72 of the Act, I authorize that the security deposit, currently held by the Landlord, be kept and used to offset the amount owed by the Tenant. Interest is payable on the deposit, but only for 2023. The total that is held is \$1,468.85 based on the \$18.85 of interest that is owed on the deposit. In summary, I grant the monetary order based on the following:

<b>Claim</b>	<b>Amount</b>
Total of items listed above	\$1,072.50
Filing fee	\$100.00
Less: Security and pet Deposit currently held by Landlord	(\$1,468.85)
<b>TOTAL:</b>	<b>\$(296.35)</b>

The Landlord must return the balance of the deposit.

### Conclusion

The Tenants are granted a monetary order pursuant to Section 67 in the amount of **\$296.35**. This order must be served on the Landlords. If the Landlords fail to comply

with this order the Tenants may file the order in the Provincial Court (Small Claims) and 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 15, 2023

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Residential Tenancy Branch