



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

Dispute Codes: MNR, MND, MNDC, MNSD, FF

## Introduction

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present oral evidence, to cross-examine the other party, and to make submissions to me.

## Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary order for unpaid rent or utilities; a monetary order for damage to the rental unit; for a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act), Regulation*, or tenancy agreement; to retain all or part of the security deposit; and to recover the filing fee for the cost of this Application for Dispute Resolution.

## Background and Evidence

The Landlord and the Tenant agree that this tenancy began on April 17, 2007 and ended on June 01, 2008. The parties agree that they had a tenancy agreement that required the Tenant to pay monthly rent of \$1,600.00 and that the Tenant paid a security deposit of \$600.00 on April 01, 2007; a security deposit of \$200.00 on September 01, 2007; and a pet deposit of \$200.00 on September 01, 2007.

A condition inspection report was completed at the beginning of this tenancy, a copy of which was submitted in evidence. The Tenant stated that the report was completed by the Landlord and that he signed it without thoroughly examining the rental unit. The Tenant specifically stated that he did not examine the hardwood floors beneath the area rug which was in the living/dining room.

The Landlord is seeking compensation, in the amount of \$50.00 for cleaning the rental unit and \$125.00 for refinishing the exterior deck that had been damaged by cigarettes. The Tenant agreed that the Landlord is entitled to compensation in these amounts.

The Landlord is seeking compensation, in the amount of \$90.00, to repair a stair railing that had been damaged by the Tenant's parrot. The Landlord submitted an estimate from BMK 120 Holdings Inc., which indicates that it will cost \$90.00 to repair the railing.

The Tenant acknowledges that his parrot damaged the railing, but he argues that the estimate submitted by the Landlord is excessive. He believes that the railing could be repaired for \$25.00, however he did not submit any evidence to support this argument.

The Landlord is seeking compensation, in the amount of \$185.00, to repair and paint the bathroom walls. The Landlord stated that the rental unit was newly painted at the beginning of the tenancy. The Condition Inspection Report that was completed at the beginning of the tenancy indicates that the living room was newly painted, but makes no mention of the bathroom walls.

The Landlord submitted an estimate from BMK 120 Holdings Inc., which indicates that it will cost \$185.00 to repaint the bathroom walls. He submitted two photographs of the bathroom walls, which show a small amount of damage to the walls.

The Tenant stated that the bathroom walls were painted with primer at the beginning of the tenancy. He stated that the damage to the bathroom walls were basic wear and tear, which was exacerbated by the lack of a bathroom fan.

The Landlord is seeking compensation, in the amount of \$235.00, to repair and paint the living room walls. The Landlord stated that the rental unit was newly painted at the beginning of the tenancy. The Condition Inspection Report that was completed at the beginning of the tenancy indicates that the living room was newly painted.

The Landlord submitted an estimate from BMK 120 Holdings Inc., which indicates that it will cost \$235.00 to repaint the living room. He submitted photographs of the living room, which show damage to the walls.

The Tenant stated that the living room walls only had one coat of paint at the beginning of the tenancy and he argued that the damage to the bathroom walls is from basic wear and tear.

The Landlord is seeking compensation, in the amount of \$745.00, to repair damage to the hardwood floors. The Landlord stated that the floors were not scratched at the beginning of the tenancy. The Condition Inspection Report noted one cigarette burn on the hardwood floor, but otherwise indicated they were undamaged.

The Landlord submitted an estimate from BMK 120 Holdings Inc., which indicates that it will cost \$745.00 to refinish the hardwood floors. He submitted photographs of the floor that show it is scratched in several places.

The Tenant stated that he does not believe the floors were damaged prior to his tenancy. He stated that the scratches depicted in the photograph were in an area of the living/dining room that was covered with an area rug at the beginning of the tenancy, which he did not view prior to signing the Condition Inspection Report at the beginning of the tenancy.

The Landlord is seeking compensation, in the amount of \$290.00, for landscaping the front yard. The Landlord and the Tenant agree that their tenancy agreement required the Tenant to maintain the yard, that the lawn had been newly planted at the beginning of the tenancy, and that the lawn was in poor condition at the end of the tenancy. The Tenant stated that he agreed to repair the lawn with landscape rock, although he did not agree to pay the full cost of the landscape rock.

The Landlord submitted a receipt from A.G. Appel Enterprises for the delivery of drain rock. The receipt was for \$360.50, \$216.30 of which was drain rock used for the above rental unit. The Landlord is also seeking compensation, in the amount of \$73.70, for the time he spent spreading the rock.

The Tenant stated that he believes the Landlord is only entitled to \$145.00 for landscaping the yard because it was not entirely his fault that the lawn was not properly maintained. He stated that the new sod was placed on substandard fill, that a maple tree inhibited the growth of the lawn, and that he was not provided with lawn maintenance equipment, such as a lawn mower and hoses.

The Landlord submitted photographs that show the lawn was in a state of disrepair. He also stated that providing lawn maintenance equipment was not part of their tenancy agreement.

The Landlord is seeking compensation, in the amount of \$91.00, for utilities. The Landlord submitted a hydro bill to the Tenant, however this bill was not provided to me. The parties agree that the bill was for service between July 20, 2008 and August 23, 2008.

The Landlord stated that he had a verbal agreement with the Tenant that he would pay the entire hydro bill and that the Tenant would collect 1/3 of the hydro bill from the tenant living in another portion of the residential complex.

The Tenant stated that he initially thought that he paying the hydro bill for his rental unit and that the tenant living in the other portion of the residential complex was paying their

own hydro bills. He stated that he never collected any portion of the hydro bill from the other tenant.

### Analysis

As the Tenant agreed that the Landlord is entitled to compensation, in the amount of \$50.00 for cleaning the rental unit and \$125.00 for refinishing the exterior deck, I find that the Landlord is entitled to compensation for these expenses, in the amount of \$175.00.

In the absence of evidence to support the argument that the estimate for repairing the stair railing provided by the Landlord is unreasonable, I find that the estimate is reasonable. I find that the Tenant failed to comply with section 37(2) of the *Act* when he failed to repair the railing at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*, which in these circumstances is \$90.00 to repair the stair railing.

After hearing the statements of both parties regarding the damaged bathroom walls and after viewing the photographs of the damage to the bathroom walls, I find that the damage to these walls constitutes reasonable wear and tear. The *Act* does not require tenants to repair damage that is due to reasonable wear and tear and, therefore, I dismiss this portion of the Landlord's application.

After hearing the statements of both parties regarding the damaged living room walls and after viewing the photographs of the damage to the living room walls, I find that the walls were damaged and that the damage goes beyond reasonable wear and tear. I find that the Tenant failed to comply with section 37(2) of the *Act* when he failed to paint and repair the walls at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*.

The Residential Tenancy Policy Guidelines show that the life expectancy of interior paint is four years. The evidence shows that the living room was painted at the beginning of the tenancy and was, therefore approximately one year old. I therefore find that the paint in the living room has depreciated by twenty-five percent, and that the Landlord is entitled to seventy-five percent of the cost of repainting the living room, which in these circumstances is \$176.25.

After hearing the statements of both parties and after viewing the photographs of the damage to the hardwood floors, I find that the Tenant did damage the floors. In reaching this conclusion, I relied heavily on the Condition Inspection Report that was completed at the beginning of the tenancy, which indicates the floors were undamaged except for a cigarette burn.

I do not accept the Tenant's argument that the Condition Inspection Report does not accurately describe the condition of the floors at the beginning of the tenancy. In reaching this conclusion I am guided by section 21 of the *Regulation*, which stipulates that a condition inspection report is evidence of the state of repair and condition of the rental unit on the date of the inspection, unless the tenant or the landlord has a preponderance of evidence to the contrary. In these circumstances the Tenant submitted insufficient evidence to satisfy me that the floors were not in the condition noted on the Condition Inspection Report.

I find that the Tenant failed to comply with section 37(2) of the *Act* when he failed to repair the scratches on the hardwood floor at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*, which in these circumstances is \$745.00 for refinishing the floors.

After hearing the statements of both parties and after viewing the photographs of the damage to the lawn, I find that the Tenant did not maintain the lawn as the tenancy agreement required. I find that the Tenant failed to comply with section 37(2) of the *Act* when he failed to repair the lawn at the end of the tenancy. I therefore find that the Landlord is entitled to compensation for any damages that flow from the Tenant's failure to comply with the *Act*, which in these circumstances is \$290.00. I find that this amount is reasonable considering the nature of the damage to the lawn.

Based on the information that the hydro bill of \$91.00 was for hydro service between July 20, 2008 and August 23, 2008, I am dismissing the Landlord's application for payment of this bill. This bill relates to hydro service for a period after this tenancy ended, and I therefore find that the Tenant is not responsible for paying this bill.

I find that the Landlords application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

### Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$1,526.25, which is comprised on \$1,476.25 in damages and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. The Landlord will be retaining the Tenant's security deposit plus interest, in the amount of \$1,019.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the amount \$507.25. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Date of Decision: September 04, 2008

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