



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MND, MNSD, FF

### Introduction

This hearing dealt with the landlord's application for a Monetary Order for damage to the rental unit, to retain the tenants' security deposit and recover the filing fee paid for this application. The landlord testified the tenants were served by registered mail. Both parties were represented at the hearing and were provided the opportunity to be heard.

### Issues(s) to be Decided

1. Has the landlord established an entitlement to compensation for damage to the rental unit and if so, the amount?
2. Retention of the security deposit.
3. Award of the filing fee.

### Background and Evidence

I heard undisputed testimony that the tenancy commenced June 1, 2008 and ended February 28, 2009. The tenants had paid a \$475.00 security deposit on or about June 1, 2008. The landlord and tenant participated in a move-in and move-out inspection together and the landlord prepared and provided the tenants with a copy of the inspection report. The tenant who participated in the inspection signed the report indicating she agreed with the landlord's assessment of the condition of the rental unit.

The landlord is claiming compensation of \$1,260.00 for repairs to the walls and repainting the entire rental unit; \$73.50 for carpet cleaning and \$60.00 for general cleaning. The landlord provided invoices to substantiate the amounts claimed. The tenant agreed to pay the carpet cleaning and general cleaning charges.

At issue was the amount of damage to the walls. The landlord described the rental unit as recently renovated prior to the tenancy commencing and several scuffs, small holes and large holes in the walls were apparent at the end of the tenancy. The landlord also testified the owner was placing the rental unit up for sale and was quite dismayed by the condition of the walls.

The tenant explained that the small holes in the walls were from tacks to hang pictures and the larger holes were from two shelves in the bedroom, two shelves in the dining room, living room and bathroom. The tenant testified that they repaired the holes but the repairs were not to the satisfaction of the landlord. The tenants requested the opportunity to make further repairs but the landlord refused. The tenant also testified she asked for estimates for the wall repairs but the owner had already hired someone to do the repairs. The tenant was willing to compensate the landlord \$75.00 to \$100.00 for the wall repair labour as the tenant testified she washed the walls and paint would have cost them nothing since her husband works for a paint store. The tenant also testified and read from an estimate provided to her by Benjamin Moore. The estimate states that the repairs and repainting would take approximately 2 hours at a rate of \$35.00 per hour for a total cost of \$70.00. The tenant acknowledged that the estimator had not attended the rental unit to see the damage.

## Analysis

As the tenant consented to pay amounts for carpet cleaning and general cleaning, in the amounts of \$73.50 and \$60.00 respectively, I award those amounts to the landlord.

With respect to wall damage, I find there was damage caused by nail holes to hang pictures and shelves. At issue is whether the damage is normal wear and tear and

whether the landlord's expenditure to repair damage caused by the tenants is reasonable.

I find the estimate obtained by the tenants to be unreliable as the person that provided the estimate did not attend the rental unit and based the estimate on the tenant's description of the damage. However, I do not award the landlord the full cost of the wall repairs and repainting as I attribute some of the damage to normal use, wear and tear and aging. I also attribute the decision to repaint all of the walls to the owner's desire to put the property in optimal condition in order to sell the property.

Residential Tenancy Policy Guideline 1 provides that

1. Most tenants will put up pictures in their unit. The landlord may set rules as to how this can be done e.g. no adhesive hangers or only picture hook nails may be used. If the tenant follows the landlord's reasonable instructions for hanging and removing pictures/mirrors/wall hangings/ceiling hooks, it is not considered damage and he or she is not responsible for filling the holes or the cost of filling the holes.
2. The tenant must pay for repairing walls where there are an excessive number of nail holes, or large nails, or screws or tape have been used and left wall damage.
3. The tenant is responsible for all deliberate or negligent damage to the walls.

Upon review of the tenancy agreement, the landlord does not specify any rules with respect to hanging pictures or shelves. However, the tenancy agreement and the

*Residential Tenancy Act* prohibit a tenant from causing damage. Damage does not include reasonable wear and tear pursuant to section 37 of the Act.

I am satisfied that putting up shelves left large nail or screw holes and the tenants are responsible for paying for the repair of the large holes and the cost to paint the walls that have large patches. I do not find the landlord was obligated to permit the tenants to return to the property after the tenancy ended in order to allow the tenants to perform additional repair work. Any repairs a tenant intends to do to remedy damage they cause should be done before the tenancy is over. I do not find sufficient evidence that the small holes were excessive in number and the tenants are not responsible for patching the small holes. As I heard the owner was putting the house up for sale, I find it more likely than not that some of the repainting was done in order to prepare the house for sale. Finally, Residential Tenancy Policy Guideline 37 indicates that interior painting has an average useful life of four years. As the tenants occupied the rental unit for 9 months, it is reasonable to conclude that the painting done before the tenancy commenced had naturally deteriorated the equivalent of approximately 20 percent. Taking all of these factors into consideration, I award the landlord one-half of the cost of repairing and repainting the walls.

As the landlord has established an entitlement to compensation for damage I authorize the landlord to retain the tenants' security deposit in partial satisfaction of the amounts awarded to the landlord. I also award the filing fee to the landlord. The landlord is provided with a Monetary Order calculated as follows:



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Wall repair and repainting – one half of invoice	\$ 630.00
Carpet cleaning	73.50
General cleaning	60.00
Filing fee	50.00
Less: security deposit and interest	<u>(479.17)</u>
Award to landlord	<u>\$ 334.33</u>

The landlord is provided with a Monetary Order in the amount of \$334.33 with this decision. The landlord must serve the tenants with the Monetary Order and may file it in Provincial Court (Small Claims) to enforce as an Order of that court.

## Conclusion

The landlord is authorized to retain the tenants' security deposit and interest in partial satisfaction of the amounts owed the landlord. The landlord is provided with a Monetary Order for the balance owing of \$334.33.

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: June 09, 2009.

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Dispute Resolution Officer