



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MND, MNSD

### Introduction

This matter dealt with an application by the Landlord for compensation for damages to the rental unit as well as to keep the Tenants' security deposit in partial payment of the alleged damages.

### Issues(s) to be Decided

1. Is the Landlord entitled to compensation for damages and if so, how much?
2. Is the Landlord entitled to keep the Tenants' security deposit?

### Background and Evidence

This tenancy started on April 30, 2008 and ended on July 1, 2009 when the Tenants moved out. Rent was \$1,500.00 per month. The Tenants paid a security deposit of \$750.00 at the beginning of the tenancy.

The Parties completed a condition inspection report on April 24, 2008 which indicated that everything in the rental unit was in good condition at the beginning of the tenancy. The Parties also completed a move out condition inspection report on July 1, 2009 on which the Tenants agreed in writing that they were responsible for replacing a missing bedroom window screen, repairing a vertical blind in the garage and repairing damage to a fireplace mantle from a candle. The Tenants take issue with the move out report insofar as they claim that the Landlord added comments to the report about pet odours after they signed it.

The Landlord claims that 3 weeks prior to the end of the tenancy, he advised the Tenants that there was a strong dog odour in the entrance stairway that led to the garage as well as in the garage itself. The Landlord said the Tenants tried to remove the smell but there was still a lingering smell at the time of the move out condition inspection. The Landlord admitted that he added a comment to the last page of the move out condition inspection report after the Tenants signed it but claimed the Tenants knew he was doing it and agreed.

The Landlord also said that new tenants moved in on July 1, 2009 and a few days later complained about a strong dog odour. Consequently, the Landlord had the carpeting in the stairway pulled up and said that there appeared to be many spots where dog urine

had penetrated the carpet and underlay into wood flooring. As a result, the Landlord said he had the wood on the stairs painted and sealed with a primer, installed new carpeting and treated the garage floor with an enzymatic cleaner.

The Tenants claimed that they had an agreement with the Landlord that they would only be responsible for replacing a missing bedroom window screen, repairing a vertical blind in the garage and repairing damage to a fireplace mantle from a candle. However, at the hearing, the Tenants argued that they should not be responsible for replacing a screen because they alleged it was not properly installed and blew off during a wind storm. The Tenants also argued that they should not be responsible for repairing the fireplace mantle because they alleged the candle dye only leached into the paint because the paint was defective.

The Tenants denied that the stains on the carpet and floor beneath it were from dog urine and argued that it as it was an entrance way, it could have been from water. The Tenants also argued that if it was urine, it wasn't from their dog or solely from their dog. The Tenants claimed that the Landlord had a dog when he resided in the rental unit and that he confided to them on one occasion that his dog had had "accidents" in the house.

## Analysis

Section 37 of the Act says that at the end of a tenancy a tenant must leave a rental unit clean and undamaged except for reasonable wear and tear. RTB Policy Guideline #1 defines "reasonable wear and tear" as natural deterioration that occurs due to aging and other natural forces, where the Tenant has used the premises in a reasonable fashion."

Section 21 of the Regulations to the Act states that "a condition inspection report completed in accordance with the Regulations is evidence of the state of repair and condition of the rental unit on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary." The Tenants did not dispute the accuracy of the move in inspection report and I find that there was no evidence of any of the damages at the beginning of the tenancy for which the Landlord now seeks compensation.

However, the Tenants argued that the move out report should be invalid in its entirety because the Landlord added comments about dog urine or odours after they signed it. In all other respects though the Tenants agreed that the report accurately reflected the condition of the rental unit. Given that there is no dispute about what was added to the move out report, I find no reason to invalidate the rest of the report which is not disputed.

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I find that the Tenants are not responsible for replacing the bedroom window screen. While there is no evidence that the screen was installed improperly, there is also no evidence that it was lost due to some act or neglect of the Tenants. Consequently, this part of the Landlord's claim is dismissed. I find that the Tenants are responsible for the cost to repair a stain on the fireplace mantle as there is no evidence that the paint was "defective" as alleged by the Tenants. As a result, I award the Landlord **\$20.00** representing one-half of the labour cost (as the invoice amount included time also for touching up the paint on the walls) and **\$29.63** representing one-half the cost of supplies (as the invoice amount included supplies for touching up paint on the walls).

I find that Tenants are responsible for the cost of cleaning and deodorizing the garage floor as I find that it had no odour issues at the beginning of the tenancy. I also accept the evidence of the Landlord that he did not keep his dog in the garage at any time when he resided in the rental property. Consequently, I award the Landlord **\$131.25** for this part of his claim.

The Tenants admitted that their dog had urinated at the base of the stairs a number of times and twice on the stairs but they claimed that they steam cleaned the carpet each time. The Tenants argued, however, that the Landlord's dog could also have urinated on the stairs. The Tenants also argued that they did not have an opportunity to mitigate their damages by suggesting alternatives to replacing the carpeting or to replace it themselves at a reduced cost.

I find however, that the Landlord brought the issue about the stairs to the Tenants attention 3 weeks prior to the end of the tenancy and gave them a reasonable opportunity to try to deal with the problem. I also find that the Landlord advised the Tenants 5 days after the tenancy ended that the odour was still a problem and that he would be going to the rental unit to pull up the carpeting and extended the offer to the Tenants to view it also. I accept the Landlord's evidence that the Tenants did not contact him after that time and that he had to deal with the problem right away because the new tenants were residing there. I find that the dog urine did in fact penetrate the carpet and underlay and went into the wood flooring and as a result, I find that the steps taken by the Landlord in replacing the carpeting and sealing the wood beneath it were necessary. I find that once the tenancy ended, the Landlord did not have to give the Tenants any further opportunity to mitigate their damages but did have a responsibility to replace the flooring at a reasonable cost.

I accept the Tenants' argument that it is possible that the Landlord's dog urinated on the steps as well although there was no evidence of that (such as an odour) at the beginning of the tenancy. Consequently, I find that the Tenants are predominantly responsible for the damages to the carpeting on the stairs and therefore conclude that

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they should be responsible for two-thirds of the cost of replacing the carpeting on the stairs and sealing the wood in the total amount of **\$448.48**.

The Tenants admitted that they were responsible for the cost of repairing a set of blinds in the garage and as a result, I award the Landlord **\$73.64** for that part of his claim. I also find that the Landlord is entitled pursuant to s. 72 of the Act to recover the **\$50.00** filing fee paid by the Landlord for this proceeding. I order the Landlord pursuant to s. 38 of the Act to keep the Tenants' security deposit in full satisfaction of the damage award as follows:

Mantle repair:	\$49.63
Garage cleaner:	\$131.25
Carpet damage:	\$448.48
Blind repair:	\$73.64
Filing fee:	<u>\$50.00</u>
Subtotal:	\$753.00
Less: Security deposit:	(\$750.00)
Accrued interest:	<u>(\$7.56)</u>
Balance Owing:	(\$4.56)

## Conclusion

I Order the Landlord pursuant to s. 38 of the Act to return **\$4.56** representing the balance of the Tenants' security deposit and accrued interest to them.

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: November 30, 2009.

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Dispute Resolution Officer