



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MND, MNR, MNDC, MNSD, FF

### Introduction

This matter dealt with an application by the Landlords for compensation for a loss of rental income, for cleaning expenses, for damages to the rental unit and to recover the filing fee for this proceeding. The Landlords also applied to keep the Tenants' security deposit.

### Issues(s) to be Decided

1. Are the Landlords entitled to compensation and if so, how much?
2. Are the Landlords entitled to keep the Tenants' security deposit?

### Background and Evidence

This month to month tenancy started on February 1, 2008 and ended on August 28, 2008 when the Tenants moved out. Rent was \$755.00 per month plus \$40.00 for hydro. The Tenants paid a security deposit of \$362.50 at the beginning of the tenancy. The Tenants gave the Landlords their written notice they were ending the tenancy at the end of August 2008 on August 3, 2008. The Landlords said they lost rental income for the period September 1 – 14, 2008. The Tenants admitted that they did not give adequate written notice and did not dispute this part of the Landlords' claim.

The Parties did a move in inspection at the beginning of the tenancy. On or about August 26, 2008 (before the tenancy ended), the Landlords took some photographs of the rental unit without the Tenants' knowledge or consent. The Tenants returned their keys to the Landlords on August 29, 2008 and on August 30, 2009, the Tenants met the Landlords at the rental unit to do a move out inspection. The Tenants claim, however, that when they arrived they were advised by the Landlords that some additional cleaning was required but that the Landlords had already cleaned the deficiencies in question. The Tenants provided photographs of the rental unit at the end of the tenancy which both parties agreed accurately depict its state of repair and cleanliness.

The Landlords claimed that they spent 12 hours cleaning a deck and landing, a ceiling fan, window frames, under a toilet seat and cleaning finger prints off of walls and door frames. The Landlords also claimed that the Tenants had not repaired holes properly and as a result, they had to take some time to scrape excess spackle off of the walls. The Tenants argued that they left the rental unit reasonably clean and repaired.

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The Landlords said that they advised the Tenants that the carpet was not cleaned properly and that it would have to be re-cleaned but the Tenants did not return to have it cleaned. The Landlords also said that there was a tape residue on the surface of the carpet where cables had been taped down. The Tenants admitted that there was a tape residue left on the carpet after they had cleaned it but argued that it was otherwise reasonably clean.

The Landlords also claimed that the linoleum floor in the kitchen had a large slice in it at the end of the tenancy. The Landlords admitted that the flooring was 14 – 15 years old but argued that it was still in good shape. The Landlords said they were advised by a linoleum supplier that the flooring could not be repaired and would have to be replaced. The Tenants admitted that the slice in the linoleum occurred during the tenancy but denied that they were responsible for it. The Tenants claimed that the damage appeared to have been caused by dragging something across the floor and suggested it could have been done by one of the Landlords when he moved a stove.

## Analysis

Section 45(1) of the Act says that a tenant of a month to month tenancy must give a landlord one clear month's written notice that they are ending the tenancy. In this case, the earliest the Tenants' notice could have taken effect was September 30, 2008. Consequently, I find that the Landlords are entitled to compensation for the period September 1-14 in the pro-rated amount of **\$352.33**.

Section 20 of the Regulations to the Act says that a condition inspection report completed in accordance with the Act and Regulations is evidence of the state of repair and condition of the rental unit on the date of inspection unless the landlord or tenancy has a preponderance of evidence to the contrary. I find that the move out condition inspection report completed by the Landlords on August 30, 2009 was not completed in accordance with the Act. In particular, section 35(1) of the Act says that the landlord and tenant must inspect the rental unit *together* which I find was not done in this case. Consequently, I do not give a lot of weight to the move out condition inspection report and find that the Tenants' photographs are the best evidence of the condition of the rental unit at the end of the tenancy.

Even if the Tenants were responsible for the slice in the linoleum floor in the kitchen (and I make no finding in that regard), I find that they would not be responsible for replacing that flooring due to its age. In particular, linoleum flooring has an expected lifetime of 10 years and as a result, I find that the linoleum flooring in the rental unit has exceeded its expected lifetime. Consequently, this part of the Landlords' application is dismissed.

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I find that the Landlords are entitled to expenses for carpet cleaning. Based on the photographs provided by the Tenants there appears to be a soiled area by the entrance as well as a tape residue. As a result, I conclude that further carpet cleaning was necessary. Consequently, I find that the Landlords are entitled to recover their carpet cleaning expenses of **\$125.99**.

I also find, however, that the rental unit was left reasonably clean by the Tenants at the end of the tenancy. Aside from a few fingerprints on a closet door frame, the Tenants' photographs (and CD of the photographs) do not show any of the other significant general cleaning deficiencies alleged by the Landlords. I do not give a lot of weight to the Landlords' photographs showing items that needed to be cleaned as many of those photographs were taken before the Tenants moved out and the Tenants did not have an opportunity to see the deficiencies in question. Furthermore, I find that there is insufficient evidence that the holes in the walls were not filled properly or that the deck needed cleaning. Consequently, the Landlords' application for general cleaning expenses is dismissed. As the Landlords have only been partially successful in this matter, I find that they are entitled to recover one-half of their filing fee (or **\$25.00**). I order the Landlords pursuant to s. 38(4) of the Act to keep the Tenants' security deposit plus accrued interest in partial payment of the damage award. The Landlords will receive a monetary order for the balance owing as follows:

|                         |                 |
|-------------------------|-----------------|
| Loss of rental income:  | \$352.33        |
| Carpet cleaning:        | \$125.99        |
| Filing fee:             | <u>\$25.00</u>  |
| Subtotal:               | \$503.32        |
| Less: Security deposit: | (\$362.50)      |
| Accrued interest:       | <u>(\$4.98)</u> |
| Balance owing:          | \$135.84        |

## Conclusion

A monetary order in the amount of **\$135.84** has been issued to the Landlords and a copy of it must be served on the Tenants. If the amount is not paid by the Tenants, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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 *Residential Tenancy Act*.

Dated: December 03, 2009.

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Dispute Resolution Officer