



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes           MNSD, MNDC, FF, MND

### Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issues(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The landlord's application is a request for a monetary order for \$1786.67 and a request that the respondent's bear the \$50.00 cost of the filing fee that was paid for the application for dispute resolution, for a total order of \$1836.67. The landlords are also requesting an order allowing them to keep the full \$1800.00 security/pet deposit towards this claim.

The tenant's application is a request for return of their \$900.00 security deposit and \$900.00 pet deposit, for a total of \$1800.00, and a request that the landlord bear the cost of the \$50.00 filing fee, for a total claim of \$1850.00.

### Background and Evidence

The landlord testified that:

- The tenants removed a built-in wall unit from the rental property without any permission to do so.
- This wall unit matched the kitchen cabinets and was permanently built-in.
- The wall unit was damaged upon removal and as a result had to be disposed of and could not be repaired.
- The tenants also left the rental unit with melted siding, likely caused by their barbecue and there was no melted siding at the rental unit at the beginning of the tenancy.
- The tenants also allowed the yard to become destroyed by their dogs and also remove two trees without permission of the landlords, and as a result the yard had to be repaired and the trees replaced.
- The carpets in the rental unit were clean when the tenants moved in however when they moved out they did not do a proper job of cleaning the carpets and as a result the landlords had to have further cleaning done to bring the carpets back to a normal state of cleanliness.
- The tenants also failed to replace a garage door opener that was given to them at the beginning of a tenancy claiming that it was stolen from their vehicle.

The landlords are therefore requesting a claim as follows:

Replacement cost of Cabinet	\$749.99
Disposal of Cabinet that was removed and damaged	\$131.25
Repair damaged yard	\$315.00
Replace missing maple trees	\$156.78
Carpet cleaning	\$275.00
Replace melted siding	\$225.00
Replace garage door opener	\$40.00
Filing fee	\$50.00
Total	\$2043.02

The landlords realize they are limited to the original amount claimed of \$1836.67 and therefore request that they be allowed to keep the full security deposit \$1800.00 and that a monetary order for \$36.67 be issued.

The tenants testified that:

- The landlord told them verbally, that the wall cabinet would be removed, because they had told the landlord they did not want it.
- The landlord failed to remove the cabinet and therefore they disassembled it and put it out in the garage.
- They were careful not to damage the cabinet when they disassembled it however the landlord ask them to move it outside so he could dispose of it and if it was damaged it is likely from being left outside.
- The siding on the rental unit was melted when they moved into the rental unit and the landlord told them he had done it with his barbecue, and that is why the tenancy agreement states of the barbecue must be well away from the siding.
- The landlord verbally told them that he had no plans to ever move back into the rental unit and therefore they could do whatever they wanted in the yard. Therefore since the trees in the rental property were poisonous to dogs they removed the trees.
- The yard was not in good condition when they moved in and they had a great deal of difficulty keeping it growing because it was in a shady area and a large amount moss would build up.
- The carpets were not clean when they moved into the rental unit and they had to have them cleaned at that time.
- They left the carpets in the rental unit cleaner when they moved out than they were when they moved in and have provided receipts to show that they had the carpets cleaned.
- They admit that the garage door opener was not returned however that is because it was stolen from their vehicle, and there is a police report filed on this matter.

The tenants therefore believe that the landlord's full claim should be dismissed and that their full security/pet deposit of \$1800.00 plus their filing fee of \$50.00 should be paid to them.

## Analysis

### Built-in cabinet

The tenants claim that they had permission to remove the cabinet however they have provided no evidence in support of that claim other than their word, and it is my decision that that is not sufficient to prove that they had permission to remove the Cabinet.

The tenants also claim that they did not damage the cabinet when they took it apart however I have viewed the photo supplied by the tenants and it's obvious that it was damaged when it was disassembled. One of the tenants photos shows the cabinet lying on its back, with one side completely removed, and since this cabinet was assembled with cabinet staples, removing the side would have caused extensive damage.

I therefore allow the landlords claims for purchasing and assembling a new cabinet, and for disposal of the old cabinet.

### Melted siding

It is my decision that I will not allow the claim for siding because I am not convinced that the siding was not melted when the tenants moved in.

On the move in inspection report there was something written in the column beside the word siding, however it has now been scribbled out. Therefore it is possible that the word written there may have been the word melted and since the tenants claim that it was melted, is my decision that the landlords have not met the burden of proving that it was not.

## Grounds-keeping and tree removal

it's obvious from the evidence provided, that the grounds were left in much worse condition at the end of the tenancy than they were in at the beginning and although the tenants claim they were told that they could do whatever they wanted with the yard, they have provided no evidence in support of that claim.

The move in inspection report even states that there is a new rear lawn, and the end of that tenancy that lawn was virtually destroyed, and the tenants admit to having removed two trees.

I therefore allow the landlords claims for restoring the grounds and replacing the trees.

## Carpet cleaning

I also allow the claim for carpet cleaning, because the move in inspection report clearly states that the carpets were professionally cleaned before the tenants moved in and they were certainly in need of further cleaning when the tenants vacated.

The tenants claim that the carpets were not clean when they moved in however they have made no notation on the move in inspection report to support their claim and therefore it is my decision that I must rely on the information that is provided on the move in inspection report.

## Garage door opener

The tenants have admitted that they did not return of garage door opener because it was stolen out of their car; however that is not cost that the landlord has to bear. The tenants were supplied with a garage door opener and if they are unable to return it, they must reimburse the landlord for the cost of the new garage door opener.

Therefore the total amount of the landlord's claim that I have allowed is as follows:

Wall cabinet replacement cost	\$749.99
Disposal of damaged wall cabinet	\$131.25
Yard repair	\$315.00
Replace Japanese maple trees	\$156.78
Carpet cleaning	\$275.00
Replace garage door opener	\$46.00
Filing fee	\$50.00
Total	\$1824.02

## Conclusion

I have allowed \$1824.02 of the landlord's claim. The landlords may therefore retain the tenants full security/pet deposits totalling \$1800.00, and I have issued a monetary order in the amount of \$24.02.

The tenant's application is dismissed in full without leave to reapply

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 30, 2010.

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Dispute Resolution Officer