



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      MND, MNR & FF

### Introduction

This hearing dealt with the landlord's application seeking a monetary claim related to costs incurred to clean and repair the rental unit. Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross examine the other party, and make submissions to me.

### Issues(s) to be Decided

Did the tenants breach the tenancy agreement, *Act* and regulations entitling the landlord to monetary relief by failing to return the rental unit in a clean and undamaged condition at the end of the tenancy?

### Background and Evidence

This tenancy began April 20, 2006 for the current monthly rent of \$908.00. The tenants paid a security deposit of \$425.00 on April 20, 2006. The tenancy ended effective May 31, 2010.

The landlord submitted that the tenants left the rental unit in an unclean and damaged state at the end of the tenancy and failed to pay outstanding utilities. The landlord seeks the following in damages:

Recovery of 30 percent of utility bills	\$144.81
Replacement of shower in bathroom due to damage caused by tenants	\$825.00
Replacement of carpets in rental unit due to damage by tenants	\$810.00
Labour costs related to completing repairs and cleaning the rental unit	\$610.00
Recovery of filing fee paid for this	\$50.00

application	
<b>TOTAL</b>	<b>\$2,832.31</b>

The landlord confirmed in the hearing that the amount of outstanding utility costs owed is based on prorated use and on 30 percent of the total pursuant to the tenancy agreement.

The landlord stated that the age of the carpet was not known; however, it is likely over 10 years old. The landlord had no real explanation as to why the tenant was responsible for the replacement of this carpet other than it was dirty. The tenants argued that they didn't clean the carpets because the landlord indicated that the carpets would be replaced.

The landlord argued that the tenants were responsible for the replacement of the hot water tank because they failed to properly clean around and behind the water heater and because the tenants had too many occupants for the rental unit and caused the water heater to be overused. The landlord acknowledged that they did not provide the tenants with any specific instruction to clean beneath and behind the water heater. The landlord did not have any professional opinion or evidence to support their position that actions of the tenant resulted in the requirement to replace the water heater.

With respect to the replacement of the shower the landlord stated that the doors along the base were damaged and the drain was apparently clogged. The landlord described how the entire base of the shower was replaced which required removal of the concrete base. The landlord spent over two days labour completing the repair. The landlord did not provide any evidence to demonstrate how the tenants damaged the shower to the point of requiring total replacement. It was the tenants' submission that the landlord is responsible for the repair and maintenance of the shower and the water heater and it is not their responsibility to pay for the cost to repair or upgrade the landlord's property. The tenants denied any knowledge that there was an issue with the shower or any damage to the shower.

The landlord stated that the total cost of labour was based on completing most of the work outlined in this claim including replacing the shower, cleaning the rental unit and making repairs to the fence. The tenant argued that the landlord failed to document what time was spent on which repair and that most of the labour cost claimed by the landlord was related to work which was not the responsibility of the tenant such as the shower and the fence. The tenants argued that the fence is common property shared

with the other tenants of the building and the landlord provided no evidence that the tenants damaged the fence.

### Analysis

This was a long term tenancy which ended in accordance with the *Act* on May 31, 2010. The tenants were required to return the rental unit to the landlord in a clean and undamaged condition but the condition of the rental unit must be considered in the context of reasonable use by the tenants over the 4 years they occupied the unit. This is referred to as *normal wear and tear*.

Section 1 of the *Residential Tenancy Act Policy Guideline Manual* describes the responsibilities of maintenance and care of a rental unit as follows:

*The Landlord is responsible for ensuring that rental units and property, or manufactured home sites and parks, meet "health, safety and housing standards" established by law, and are reasonably suitable for occupation given the nature and location of the property. The tenant must maintain "reasonable health, cleanliness and sanitary standards" throughout the rental unit or site, and property or park. The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard. The tenant is also generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest. The tenant is not responsible for reasonable wear and tear to the rental unit or site (the premises), or for cleaning to bring the premises to a higher standard than that set out in the Residential Tenancy Act or Manufactured Home Park Tenancy Act (the Legislation).*

*Reasonable wear and tear refers to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion.*

It is clear from the landlord's application that he does not understand his obligation under the *Act* to repair and maintain the fixtures and appliances of the rental unit and that these are not costs which can be claimed against a tenant unless a tenant has deliberately caused damage or been negligent causing damage. There was a lack of evidence that the tenants cause damage to the shower or to the hot water tank and no evidence that the tenants deliberately failed to care for these fixtures or neglected them resulting in the required repairs. I also reject the landlord's speculation that additional occupants in the rental unit contributed to the water heater requiring replacement. This

is based on speculation and the landlord did not provide any expert evidence to support this theory. I deny the landlord's claim for costs to repair and replace the water heater and shower.

I also deny the landlord's claim to replace the carpet. Carpets are also the responsibility of the landlord, except for cleaning or where there has been deliberate and significant damage caused by the tenants. In the circumstances before me the carpet is beyond its useful life of 10 years and it is the landlord's sole responsibility to replace the carpet.

The only portion of the landlord's claim which I accept are the recovery of unpaid utilities for the sum of \$144.81 and a portion of the labour claimed by the landlord to clean the rental unit. The landlord claimed a total of \$610.00 for the expense of his labour, but did not provide any breakdown of what amount of time was spent on cleaning and what was spent on making repairs. In addition, I find that the landlord failed to present any evidence that the tenants are responsible for time to repair the outside fence. Therefore, I only accept that the landlord incurred a cost to clean the unit and to make some repairs to the walls. In the absence of detailed evidence from the landlord I find that the sum of \$300.00 compensates the landlord. This sum is based on 15 hours of work at \$20.00 per hour. From the photographic evidence I am satisfied that there was a significant amount of cleaning and repair to the walls required at the end of this tenancy.

I find that the landlord has established a total monetary claim for the sum of \$444.00. I deny the landlord's request to recover the filing fee paid for this application, as the landlord's claim was largely without merit due to the landlord making unreasonable claims against the tenants for replacing the carpets, water heater and shower. I Order that the landlord may retain the tenants' security deposit plus interest of \$439.39 in partial satisfaction of this claim.

Although there remains a sum of \$4.61 owed to the landlord, I decline to issue the landlord a monetary Order for such a small sum.

### Conclusion

The landlord's application has been granted in part. I have determined that the landlord may retain the tenants' security deposit plus interest of \$439.39 in partial satisfaction of a monetary claim established of \$444.00 for unpaid utilities and costs to clean the rental unit.

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 09, 2010.

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Dispute Resolution Officer