



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNDC, MNR, MNSD, FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by each party.

The Tenants filed their Application seeking a monetary order to reduce rent for one month due to flooding in the rental unit, and to recover their filing fee for the Application.

The Landlords applied for monetary compensation for unpaid rent, to keep all or part of the security deposit and to recover the filing fee for the Application.

The Tenants did not apply for the return of their security deposit, however, it is clear from their submissions in the hearing that they were seeking a refund, if applicable. The Landlords did not apply for cleaning of the rental unit, however, it is clear from their submissions they were claiming for the cleaning. Therefore, I have allowed both parties to amend their claims accordingly and these are dealt with in this Decision.

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.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues(s) to be Decided

Are the Tenants entitled to reduced rent for one month?

Are the Landlords entitled unpaid rent?

Are the Landlords entitled to keep all or part of the security deposit?

### Background and Evidence

This tenancy began on May 1, 2010, with the parties agreeing on rent of \$1,000.00 per month. The rental unit is a basement suite in the same residential property occupied by the owner Landlords.

On June 30, 2010, the Tenants paid the rent for July. On July 1, 2010, the hot water tank burst flooding the basement unit.

The Landlords had a restoration company come in immediately to deal with the flooded basement.

The Landlords offered the Tenants use of a 26 foot long, 2007 travel trailer, which was located on the property. According to the submissions of the Landlords, the trailer had beds, a bathroom, hot and cold running water, a shower, a cooking stove, a refrigerator, and air conditioning.

One of the Tenants moved into the trailer with a friend, and stayed in the trailer until July 7, 2010, when she returned to the rental unit. The other Tenant went to live with her boyfriend.

According to the Landlords, the restoration company had returned on July 7, and put the unit back to liveable conditions. The unit had been cleaned and the carpets removed. The Tenant who had occupied the trailer moved back into the rental unit on July 7, 2010.

On July 15, one of the Tenants wrote to the Landlords and requested a portion of the July rent to be returned to the Tenants. The Tenant alleges in her letter that they have had to pay for other accommodations.

On July 16, 2010, the Landlords responded to the Tenants' request, and denied the request for a rent reduction. The Landlords explain they have tried to accommodate the Tenants during the restoration, and one did live in the trailer. The Landlords explain they are doing everything possible to have the unit restored and that the carpets would be installed soon. The Landlords explain that the contractors who were to install the carpet are, "... backed up with other clients."

The evidence of the Landlords was that when the restoration company entered the rental unit on July 22, 2010, the Tenants had moved out all their belongings. The Landlords claim the Tenants did not give them a Notice to End Tenancy and moved out

late in the evening or night on July 21, 2010. The Landlords request a monetary order for August 2010 rent, as they had no notice from the Tenants.

The Tenants agree they moved out on July 21, 2010, however, they claim the unit was uninhabitable due to the lack of carpets. In her submissions, the Tenant also alleges the Landlords are at fault for the flood as they put a used hot water heater into the rental unit.

The Landlords are also claiming for \$140.00 for seven hours of cleaning the rental unit, after the Tenants vacated. The Landlords claim the Tenants failed to clean the stove, sinks, and wash the floors.

### Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find as follows:

I find the Tenants had insufficient evidence to prove the Landlords had installed a faulty hot water heater in the rental unit. I do not find the Tenants have proven, on a balance of probabilities, that the Landlords were negligent and caused the flood.

I find that the Landlords took reasonable steps, in a timely fashion, to reduce the impact of the flood in the rental unit on the Tenants. The Landlords offered suitable temporary accommodation in a trailer on the property. The Tenants had insufficient evidence, such as receipts or invoices, to prove that they had to pay for alternate accommodations.

Nonetheless, I find that the Tenants suffered a loss of use of the rental unit for the period from July 1, to July 6, 2010. The Landlords are required under section 32 of the Act, to provide a rental unit suitable for occupation by the Tenants. I find that the rental unit was not suitable for occupation from July 1 to July 6, and therefore, I find the Tenants should be reimbursed in the amount of \$193.55, representing a return of rent, prorated for six days, for the month of July. As they were partially successful, I allow the Tenants a portion of the filing fee for the Application, in the amount of \$20.00. The total awarded amount of **\$213.55**, is subject to the set off described below.

I find the Tenants breached the Act by failing to provide the Landlords the Notice to End Tenancy as required under section 45 of the Act. The Tenants did not give the Landlords any notice they were contemplating ending the tenancy and vacating, nor did they give the Landlords notice which complied with section 45(3) of the Act. Therefore,

I find the Tenants must pay the Landlords **\$1,000.00** for loss of rent for August of 2010 subject to the set off described below.

I further find the Tenants failed to clean the rental unit when they vacated, as required under the Act. I find the stove, sinks and floor were not cleaned. The Tenants must pay the Landlords **\$140.00**, representing seven hours of cleaning at \$20.00 per hour. I also allow the Landlords to recover their **\$50.00** filing fee, and award the total of **\$1,190.00** to the Landlords, subject to the set off below.

I also allow the Landlords to retain the security deposit of \$500.00, in partial satisfaction of the claim, leaving a balance due of **\$690.00**.

I offset the award to the Landlords of \$690.00 with the award to the Tenants of \$213.55, and grant the Landlords a monetary order for the balance due from the Tenants in the amount of **\$476.45**.

This order must be served on the Tenants and may be enforced in the Provincial 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 23, 2010.

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Dispute Resolution Officer