



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

**Dispute Codes**      MNSD, MNDC, FF

### **Introduction**

This hearing was convened by way of conference call to deal with the landlord's application for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlord to retain the security deposit or pet damage deposit in full or partial satisfaction of the claim; and to recover the filing fee from the tenants for the cost of this application.

The landlord company was represented at the hearing by an agent, as well as a leasing agent, who both provided affirmed testimony. The tenants also attended the conference call hearing and gave affirmed testimony. The landlord also provided an evidence package in advance of the hearing, and the parties were given the opportunity to cross examine each other on their testimony. All information and testimony provided has been reviewed and is considered in this Decision.

At the outset of the hearing, the landlord applied to amend the application changing the monetary amount claimed from \$464.92 to \$443.03. The tenants did not oppose the amendment, and the amendment is therefore allowed.

### **Issue(s) to be Decided**

Is the landlord entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Is the landlord entitled to retain the security deposit or pet damage deposit in full or partial satisfaction of the claim?

### **Background and Evidence**

This fixed term tenancy began on September 1, 2009 and expired on August 31, 2010. Rent in the amount of \$1,700.00 per month was payable in advance on the 1<sup>st</sup> day of each month and there are no rental arrears. At the outset of the tenancy, the landlord collected a security deposit from the tenants in the amount of \$850.00.

The undisputed evidence of the parties is that the tenants did not actually move into the rental unit until September 11, 2009, and moved from the rental unit at the end of the fixed term. Further, the tenants provided their written forwarding address on the move-out condition inspection report which was completed on September 2, 2010, and the landlord returned \$464.92 of the security deposit on September 27, 2010 which was received by the tenants on September 29, 2010.

The landlord testified that the tenants complained about the cleanliness of the unit when they moved in. The landlord had received a cleaning receipt from the previous tenants which satisfied the landlord that the unit was clean however the landlord hired cleaners in any event. The cleaners specifically confirmed to the landlord that they cleaned behind the fridge. The landlord stated that he expected the tenants to leave the unit in that condition at the end of the tenancy. The landlord also gave an extension to the tenants allowing them to stay longer to finish moving and cleaning.

The landlord further testified that the tenants left the baseboards, trim, bathroom floor, tub and under the fridge unclean. The leasing agent also testified that the tenants left a water stain and green mildew in the tub. The landlord also provided photographs to support that claim, as well as a receipt for a professional cleaning service dated September 9, 2010 in the amount of \$374.92. The landlord claims that amount from the tenants as well as \$18.11 for postage.

The landlord also provided a copy of the move-in/out condition inspection report which is dated September 11, 2009 at move-in and September 2, 2010 at move-out.

The tenants testified that on August 16, 2010 they emailed the landlord asking if he wanted to view the rental unit. The landlord responded that he would leave it to the leasing agent.

The tenants could only book the elevator for moving out for September 1, 2010. They went back that night to clean and hired a cleaner because the female tenant was expecting a baby.

The tenants also testified that the landlord's cleaner refused to clean behind the stove and fridge, and the unit was not move-in ready at the outset of the tenancy. The male tenant moved the stove and then the cleaner cleaned but did not clean inside or under the fridge. She spent most of her time cleaning dog hair off the blinds, and one bedroom had a strong smoke smell.

They also testified that a friend assisted with cleaning prior to move-out, and the rental unit was left reasonably clean. They stated that it definitely did not require 13 hours of

cleaning which the cleaner charged the landlord for. They further testified that there was construction in the area, and the male tenant went back to mop again on September 1, 2010. They did not clean behind the fridge, but the landlord's cleaner didn't either at the outset of the tenancy. The tenants dispute that there were water stains or green mildew left on the tub.

Once the tenants received a portion of the security deposit, they called the landlord but he refused to talk to them and hung up the phone. The tenants then called the leasing agent and left a message. The leasing agent sent a text message for the tenants stating that he would talk to the landlord and get back to them. The tenants have not received the balance of \$385.08 of the security deposit from the landlord.

### **Analysis**

Firstly, I find that the landlord's claim for \$18.11 for postage is not recoverable under the *Residential Tenancy Act*, and therefore is dismissed.

With respect to the remaining claim, I have reviewed the move-in/move-out condition inspection report which shows that the walls and trim at the entry were left dirty and dusty, as were the walls and trim in the kitchen and under the fridge. I also note that the floor in the living room was left dusty and the tub shows as dirty as well. The parties signed the report, and I note that the tenant agreed at the end of the tenancy that the report fairly represents the condition of the rental unit.

I question whether or not those specific items would require 13 hours of cleaning in a vacant unit, and I find that in order to take that long for a cleaning team, that would bring the rental unit into a state of cleanliness that is more pristine than the tenants are responsible for under the *Act*:

**37 (2)** When a tenant vacates a rental unit, the tenant must

(a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

A landlord may wish a rental unit to be left in a pristine condition in order to show it to prospective tenants or purchasers, however, the tenant's responsibility is to leave the unit reasonably clean.

I have also reviewed the photographs provided by the landlord, and find that there is more debris on the floor and baseboards than what could be caused by construction dust in the neighbourhood. I also find that the landlord provided a cleaning service after

the tenants took possession of the rental unit, which is not disputed. The landlord's position is that he felt the tenants should leave the rental unit in the same condition however that is not provided for in the *Act*.

The bill for cleaning provided by the landlord dated September 9, 2010 shows that the rate charged is \$25.75 per hour. In the circumstances, and in reviewing all the evidence before me, I find that 4 hours would have been sufficient to bring the unit to an acceptable standard of reasonably clean. The landlord is also entitled to recovery of the \$50.00 filing fee for the cost of this application, and I find that the landlord should retain \$103.00 for cleaning costs and \$50.00 for the filing fee.

### **Conclusion**

For the reasons set out above, I order that the landlord retain the sum of \$153.00 from the security deposit held in trust, and I order that the landlord return the sum of \$232.08 to the tenants forthwith.

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: February 16, 2011.

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Residential Tenancy Branch