



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      MND MNSD MNDC LRE FF

### Introduction

This hearing dealt with applications by the tenants and the landlord.

The tenants applied for monetary compensation and an order setting conditions on the landlord's right to enter the rental unit. As the tenancy had ended by the date of the hearing, I accordingly dismissed the portion of the tenants' application regarding setting conditions on the landlord's right to enter the rental unit.

The landlord applied for monetary compensation and an order to retain the security deposit in partial compensation of the monetary claim.

Three tenants, a witness for the tenants, the landlord, an advocate for the landlord and a witness for the landlord all attended the teleconference hearing.

### Issue(s) to be Decided

Are the tenants entitled to monetary compensation as claimed?

Is the landlord entitled to monetary compensation as claimed?

### Background and Evidence

The tenancy began on February 15, 2010. On January 13, 2010 the tenants paid the landlord a security deposit of \$537.50. The landlord and tenants carried out a move-in inspection and signed the report on February 19, 2010. The tenancy ended on February 21, 2011. The landlord and tenants carried out a move-out inspection on that date, but the tenants did not agree with the landlord's assessment of the condition of the rental unit in the move-out inspection.

The application of the tenants is for monetary compensation to replace personal property that was damaged when the toilet overflowed in May 2010. The evidence of the tenants on their application was as follows. On the date in question, the toilet was

bubbling over, and there was almost an inch of water on the floor. The tenant attempted to immediately address the flooding water by soaking it up in 13 bath towels, and also by attempting to suck the water up with her vacuum cleaner. Then the tenant went upstairs and told the landlord what was happening. The tenant acknowledged that attempting to suck up the water with the vacuum cleaner probably wasn't the best idea, but she was trying to deal quickly with the water.

The bath towels had to be thrown out, and the vacuum cleaner was damaged beyond repair. The tenant spoke to the landlord about receiving compensation for the bath towels and vacuum cleaner, and on two separate occasions the landlord said that the cost would be covered by the landlord's home insurance. Several months later, the landlord told the tenants that her insurance would not cover the costs, and the tenants would have to use their tenant insurance. The tenants' insurer informed the tenants that they would have had to report their loss within seven days of the incident, and file a claim within 60 days, so the tenants were out of time.

The tenants replaced the vacuum cleaner for \$79.99, and replaced four bath towels for \$10 each, and another six bath towels for \$17.99 each. The tenants have claimed recovery of these costs, plus an additional \$10 to \$17 for the remaining bath towels to be replaced.

The landlord's response to the tenants' application was as follows. The tenants were responsible for the flood because the tenant had just finished doing 13 loads of laundry when the flooding occurred. The tenants were aware that the house was on a septic system. The tenancy agreement sets out that the tenant will carry sufficient insurance to cover their property against loss or damage and the tenant agrees that the landlord will not be responsible for any loss or damage to the tenant's property. The landlord's evidence was that she told the tenants that they would most likely have to claim their property loss under their own insurance, but she would check and see if her home insurance would cover it. The landlord was not aware that she would have to get back to the tenants on this within a particular time frame.

The landlord applied for monetary compensation for cleaning and repairs after the tenants vacated. The landlord has claimed the following:

- 1) \$38.35 for paint to fix the bathroom cupboard – the tenants spilled Lysol inside the bathroom cupboard and damaged it. The tenant made a note on the move-out inspection report which the landlord submitted indicated that the tenant did this damage.

- 2) \$4.46 for oven cleaner – the tenants did not properly clean the oven. The landlord's witness, who was present at the move-out inspection, testified that the oven was "filthy."
- 3) 36.96 for cleaning drapes – the tenants did not clean the drapes. The landlord's witness stated that the curtains were stained, and the tenants said that the landlord should have to clean them.
- 4) \$27.47 for paint and sandpaper – there was a hole in the wall that the tenants had partially repaired, and the landlord had to complete the repairs.
- 5) \$60 for two hours of cleaning and fixing the above items.

The landlord provided receipts and photographs to support her application.

The response of the tenants on the landlord's claim was as follows. The witness for the tenants stated that at the time of the move-in inspection the stove was severely stained and the drapes were not inspected. At move-out, the witness offered to clean the drapes, but the landlord said it was not necessary to clean the drapes or do any other cleaning. The tenants believed the cost for cleaning the drapes was too high, and that the paint was expensive. The tenants spent two hours cleaning the oven. There was no hole in the wall, it had already been patched.

I note that the move-in and move-out inspection report shows no note of damage to the stove or stains on the drapes at the outset of the tenancy.

### Analysis

In regard to the tenant's application, I find that the tenants are not entitled to the compensation claimed. The tenancy agreement clearly states that the tenants must carry sufficient insurance to cover their property against loss or damage and the tenant agrees that the landlord will not be responsible for any loss or damage to the tenant's property. The tenants' application is therefore dismissed.

As the tenants' application was dismissed, they are not entitled to recovery of the filing fee for the cost of their application.

In regard to the landlord's application, I find as follows. The landlord is entitled to all of the amounts claimed for cleaning and repairs. The tenants acknowledged the damage to the bathroom cabinet. The tenants did not note any damage to the oven or drapes at the time of move-in. The tenants stated that the hole in the wall had been patched, but it had not been sanded or painted over. The tenants did not provide sufficient evidence

to establish that the costs of paint and cleaning the drapes were unreasonable. The landlord is entitled to the total amount claimed of \$167.23.

As the landlord's application was successful, she is entitled to recovery of the \$50 filing fee for the cost of her application.

### Conclusion

The tenants' application is dismissed.

The landlord is entitled to a total award of \$217.23, which she may retain from the security deposit in full compensation of her claim. The landlord must return to the tenants the balance of the security deposit, in the amount of \$320.27, in accordance with the Act.

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: April 5, 2011.

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Residential Tenancy Branch