



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      MND, MNSD, MNDC, FF  
                              MNSD, FF

### Introduction

This hearing dealt with cross application from the landlord and tenant. The application by the landlord is for a monetary order for damages, to keep all or part of the security deposit, money owed or compensation for damage or loss and recovery of the filing fee. The application by the tenants is for return of double the security deposit. Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Is either party entitled to any of the above under the Act.

### Background and Evidence

This tenancy began July 1, 2010 with monthly rent of \$1250.00 and the tenants paid a security deposit of \$625.00.

The tenants testified that they provided their forwarding address to the landlord by email on February 9, 2011 and the landlord acknowledges receipt of the email. The landlord filed for dispute resolution on February 15, 2011 as required in section 38 (d) of the *Act*.

The landlord testified that he and tenants completed a move-out walk through inspection of the rental unit and during the walk through the landlord pointed out the damaged light fixture to the tenants. The parties agreed that if the tenants replaced the broken light fixture that the landlord would provide the tenants with a post-dated cheque for the security deposit later that day. The parties then met later that day, the light fixture had been repaired and the landlord gave the tenants a post-dated cheque for the full amount of the security deposit.

The landlord testified that after the initial move-out inspection with the tenants he returned to the rental unit and discovered a scratch on the hardwood floor, that the tenants had not cleaned behind the fridge and there were marks on the walls from the tenants. The landlord maintains that the tenants hurried him during the move-out walk

through and were confrontational as they had a plane to catch and stated that they would not return the keys until they had a post-dated cheque for the security deposit; the tenants refute this claim. The landlord does acknowledge that a proper move-in and move-out inspections were not completed at the start or end of the tenancy.

The landlord stated that he is not claiming for damages and is only seeking compensation for supplies to clean and repair the rental unit. The landlord is seeking \$200.00 compensation for the following:

Scotia Bank stop payment	\$12.50
Home Depot	\$56.85
Home Depot	\$12.85
Home Depot	\$50.92
Registered Mail	\$10.01
Filing Fee	\$50.00
<b>Total Claim</b>	<b>\$193.13</b>

The tenants testified that the rental unit, with exception of cleaning behind the fridge, was left in the same condition as when they moved in. The tenants stated that they did not put picture up on the walls and that all if the patches and nails on the walls shown in the photographs were there at the start of the tenancy; the landlord did not refute this claim. The tenants acknowledged that they had broken a light fixture but that it was replaced as requested by the landlord. The tenants stated they were surprised when the landlord put a stop payment on the security deposit cheque and believe it was always the landlord's intention to keep the full amount of the deposit.

The tenants stated that they believed everything in the rental unit to be in order after the move-out walk through and maintain that they were not confrontational. The tenants stated that they feel as the landlord has finally painted the rental unit that he is attempting to go back on them to recover the cost of supplies.

The tenants in this application are seeking return of double the security deposit.

### Analysis

Based on the documentary evidence and undisputed testimony of the parties, I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds for entitlement to a limited amount of compensation for damages and cleaning costs. In the absence of move-in and move-out condition inspection reports is not possible to prove beyond a reasonable doubt that the tenants, with exception of not cleaning behind the fridge, damaged the rental unit or did not thoroughly clean the rental unit. Therefore the landlord is entitled to \$25.00 compensation for the tenants not

cleaning behind the fridge and the balance of the landlord's application is dismissed without leave to reapply.

I find that the landlord is entitled to a monetary order of \$25.00.

As the landlord has had some success in their application the landlord is entitled to recovery of the \$50.00 filing fee.

Based on the documentary evidence and undisputed testimony of the parties, I find on a balance of probabilities that the tenants have met the burden of proving that they have grounds for entitlement to return of the original amount of the security deposit. As the landlord applied for dispute resolution within 15 days of receiving the tenants forwarding address, the landlord has complied with the Act effectively removing the tenant's opportunity to claim for double the security deposit.

I find that the tenants entitled to a monetary order of \$625.00.

As the tenants have been successful in their application the tenants are entitled to recovery of the \$50.00 filing fee.

The landlord's \$25.00 award and \$50.00 filing fee are offset by the tenant's \$625.00 award and \$50.00 filing fee resulting in a balance of \$600.00 due to the tenants. The landlord is hereby ordered to return the \$600.00 balance of the tenant's security deposit to them.

### Conclusion

The landlord is hereby ordered to return the \$600.00 balance of the tenant's security deposit.

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: June 3, 2011.

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Residential Tenancy Branch