



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes MND, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order for damages, for unpaid rent, to keep all or part of the security deposit, money owed or compensation for damage or loss and recovery of the filing fee. Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

### Background and Evidence

This tenancy began May 1, 2009 with monthly rent of \$2700.00 and the tenants paid a security deposit of \$1350.00.

The landlord testified that the tenants vacated the rental unit without thoroughly cleaning the kitchen, left walls in the master bedroom painted black, walls in the bathroom painted orange, unrepaired holes in the ceiling from a child's swing set, damage the blinds by not properly storing them and over held the rental unit 3 days. Both parties acknowledged that move-in and move-out condition inspection reports were not completed.

The landlord stated that during the tenancy the tenants had painted the master bedroom black and the bathroom orange. The landlord has submitted evidence showing that it took 4 coats of paint to cover the black and orange. The tenants readily admitted that they painted these two rooms and had not had permission from the landlord to do so. The tenants stated that as the landlord did not tell them to repaint the walls at the end of the tenancy they felt that repainting would not be required.

The landlord stated that the tenants over-held the rental unit by 3 days and refers to items the tenants had in the kitchen and storage unit. Neither the landlord nor tenants offered clear testimony on what was left in the kitchen apart from some dishes in the sink and the fridge components on the counter. The tenants stated that the landlord had given the tenants permission to leave items in the storage unit as they were having problems with their movers. The landlord acknowledged that she had in fact told the tenants they could leave items in the storage unit for a few extra days.

The landlord stated that the tenants had mounted a child's swing from the ceiling and had not made any effort to repair the holes left from the swing set or from trying to find a joist from which to hang the swing set. The tenants acknowledged that they had put up the swing set and thought as the landlord would be repainting that this repair would simply become part of that process.

The landlord stated that the tenants left items strewn all over the kitchen counters and that the fridge, stove and inside of the cabinets had not been cleaned and were full of crumbs. The tenants testified that the items on the counter were the drawers and shelves from the fridge that the tenant had left on the counter to dry after being cleaned. The tenants maintain that the kitchen was thoroughly cleaned and left in better condition than when they moved in.

The landlord in their application has requested interest which has been calculated on the balance owed on the tenant's utility bill which was paid late by the tenants. The landlord was advised in this hearing that this is not a recoverable cost and that this portion of the landlord's claim would be dismissed.

The landlord stated at the start of the tenancy there were roman blinds up all throughout the rental unit and that the tenants had taken them down to put up their own window covers. The landlord stated that the blinds were stored unwrapped and in the unheated storage area and as a result the blinds were dirty and moldy and un-useable. The tenants maintain that the blinds were not clean when they placed them into storage and that the blinds were in the heated and not the unheated storage area. The landlord stated that the blinds were approximately 10 years old at the start of the tenancy.

The landlord in this application is seeking the following in compensation:

Painting of bedroom & bathroom	\$975.00
3 days of over holding	\$261.29
Repair of ceiling for swing set	\$250.00

Cleaning costs	\$120.00
Interest on late utility bill payments	\$14.74
Replacement of drapes	\$298.00
<b>Total Claim</b>	<b>\$1919.03</b>

### Analysis

Based on the documentary evidence and testimony I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds for entitlement to a monetary order for damages. The tenants acknowledge that they had painted the bedroom and bathroom and not returned the rooms to the condition they were in at the start of the tenancy. The tenants also acknowledged that they had installed a swing set from the ceiling and had not repaired and painted the ceiling once the swing set was removed.

I do not consider the tenants to have over held the rental unit as the landlord acknowledged in this hearing that she had given the tenants permission to leave some of their items in the storage unit. The landlord also did not provide evidence or testimony that clearly defined what items were to have been left in the rental unit by the tenants. This portion of the landlord's application is therefore dismissed without leave to reapply.

The testimony of the parties regarding how clean the kitchen was directly contradicts and with no move in or move out condition inspection reports it is not possible to determine the state of the kitchen at the start or end of the tenancy. This portion of the landlord's application is therefore dismissed without leave to reapply.

Charging a tenant interest on late paid utility bills is not a recoverable cost therefore this portion of the landlord's application is dismissed.

The testimony of the parties regarding the condition of the blinds directly contradicts and with no move in or move out condition inspection reports it is not possible to determine the condition of the blinds at the start of the tenancy. Residential Tenancy Policy Guideline 37 speaks to the 'Useful Life of Things Purchased' and notes blinds as having a life of 10 years. It is reasonable to determine that the landlord would have had to replace the blinds at the end of this tenancy as at the start of the tenancy the blinds were 10 years old and I do not find that the landlord has established that the condition of the blinds was strictly due to how the tenants had stored the blinds. This portion of the landlord's application is therefore dismissed without leave to reapply.

I find that the landlord has established a claim for the limited amount of \$1225.00 for painting and repair of the ceiling.

Painting of bedroom & bathroom	\$975.00
3 days of over holding	\$0.00
Repair of ceiling for swing set	\$250.00
Cleaning costs	\$0.00
Interest on late utility bill payments	\$0.00
Replacement of drapes	\$0.00
<b>Total Claim</b>	<b>\$1225.00</b>

The landlord is entitled to recovery of the \$50.00 filing fee.

### Conclusion

I find that the landlord has established a monetary claim for \$1225.00 for painting and repair of the ceiling. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep **\$1275.00** the tenant's \$1350.00 security deposit in full satisfaction of the claim with the \$75.00 balance of the security deposit due to the tenants.

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 28, 2011.

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Residential Tenancy Branch