



# 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 a application by the landlord and the tenants for a monetary order and an order to retain the security and pet deposits in partial satisfaction of the claim. The tenants applied for double recovery of the security and pet deposits. The landlord and both tenants participated in the conference call hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. I have reviewed all testimony and other evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Are the tenants entitled to double recovery of the security and pet deposits?

### Background and Evidence

The tenancy began on April 18, 2011. At the outset of the tenancy, the tenants paid the landlord a security deposit of \$800 and a pet deposit of \$800. On April 18, 2011 the landlord and tenants carried out a move-in inspection and signed the move-in inspection report.

The tenancy ended on January 30, 2012. The landlord and tenants did not carry out a joint move-out inspection.

### *Landlord's Evidence*

At the move-in inspection, the landlord informed the tenants that the bathtub had just been done. The "amendment" or addendum to the tenancy agreement, signed by the tenants on April 8, 2011, contains a clause as follows: "The bathtub has been redone and caring/cleaning instructions are supplied. If the bath is chipped, please report AS

SOON AS POSSIBLE as this can be fixed if reported early. Otherwise the whole tub will have to be redone at your expense.”

The landlord acknowledged that she gave the tenants a copy of the tenancy amendment on January 30, 2012. The bathtub had 3 chips in it, and the landlord had to have the bathtub redone again. The landlord claimed \$728 for refinishing the bathtub.

The landlord had the carpets in the rental unit cleaned and treated, for \$179.14. The tenants agreed to have the pet deposit put toward carpet cleaning.

There was a burn mark on the deck, and the landlord had the deck repaired for \$85. The landlord did not have a receipt for the deck.

The landlord acknowledged that the tenants provided their written forwarding address. The landlord believed she received the written forwarding address on January 31, 2012. The landlord wanted to do a move-out inspection with the tenants on January 30, 2012, but the male tenant refused. The landlord did not provide evidence that she gave the tenants two opportunities to do the move-out inspection and served the tenants with the notice of final opportunity to carry out a condition inspection.

#### *Tenants' Evidence*

On January 30, 2012, the tenants had finished cleaning the unit, and the landlord came and took a look. At that time, the tenants told the landlord they had left their forwarding address in writing on the kitchen counter. The tenants' documentary evidence includes a copy of a note dated January 30, 2012, in which they provided their forwarding address. The landlord did not apply to keep the pet and security deposits until February 15, 2012, which is more than 15 days after the landlord was required to apply to keep the deposits.

The tenants did not receive the tenancy amendment until the end of the tenancy. The water marks in the tub were caused by dripping. The tenants told the landlord about the chip in the tub in January, but the landlord did not fix it right away and left it until move-out.

There is no evidence of the landlord's cost for repairs to the deck, and it was an old deck.

The tenants are not disputing the costs for carpet cleaning and pet sanitizing.

Analysis

Upon consideration of the evidence, I find as follows.

### *Landlord's Monetary Claim*

The landlord is entitled to the amount of \$179.14 claimed for cleaning and sanitizing the carpet.

The landlord is not entitled to the amount claimed for the bathtub. The landlord acknowledged that she did not give the tenants a copy of the tenancy amendment until the move-out, and the landlord did not provide evidence of any specific special instructions given to the tenants regarding the care and cleaning of the bathtub. The landlord cannot therefore rely on the term in the tenancy amendment regarding the bathtub. Furthermore, the landlord did not provide sufficient evidence to establish that the damage to the bathtub amounted to any more than wear and tear through normal use of the bathtub. This portion of the landlord's claim is dismissed.

The landlord is not entitled to the amount claimed for deck repairs, as she did not provide a receipt for the repairs and the tenants disputed the landlord's claim for the deck repairs. This portion of the landlord's claim is dismissed.

### *Tenants' Claim*

I find that the tenants are not entitled to double recovery of the pet and security deposits. The tenants did not provide sufficient evidence to establish that they gave the landlord their forwarding address on January 30, 2012. The landlord stated that she did not get the forwarding address until January 31, 2012. The tenants left the forwarding address on the counter, which is not one of the methods of service permissible under the Act. I therefore find that the landlord did make her application in time.

Under section 36 of the Act, the right of a tenant to the return of the security or pet deposit, or both, is extinguished if the landlord provided the tenant two opportunities to do a move-out inspection and the tenant did not participate on either occasion. In this case, the landlord did not give the tenants two opportunities to participate in the move-out inspection, so the tenants did not extinguish their right to the return of the base amount of their deposits. The tenants are entitled to recovery of the balance of the base amount of their deposits.

### *Filing Fees*

As neither party was fully successful in their application, I decline to award recovery of the filing fees for the cost of their applications.

Conclusion

The landlord is entitled to \$179.14, which she may retain from the pet deposit.

I grant the tenants an order under section 67 for the balance due of \$1420.86. This order may be filed in the Small Claims Court and enforced as an order of that 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: May 4, 2012.

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Residential Tenancy Branch