



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes MNDC, OLC, FF, O

### Introduction

This matter dealt with an application by the Tenants for compensation for damage or loss under the Act or tenancy agreement, for an Order that the Landlords comply with the Act or tenancy agreement and to recover the filing fee for this proceeding.

At the beginning of the hearing, the Parties named as Landlords on the Tenants' application, namely R.F. and M.S., argued that they should not have been named as Landlords because they were only agents of the owner of the rental property. In particular, R.F. is the property administrator and M.S. is the residential manager. Section 1 of the Act defines a Landlord as "*the owner of a rental unit, the owner's agent or another person who, on behalf of the landlord, permits occupation of a rental unit under a tenancy agreement or exercises and performs duties under the Act or tenancy agreement.*" Both R.F. and M.S. admitted that they are responsible for entering into tenancy agreements, for collecting rent and have authority to end tenancies on behalf of the property owner and therefore I find that they are properly named as parties in this proceeding.

### Issue(s) to be Decided

1. Are the Tenants entitled to compensation?
2. Are the Tenants entitled to dispute a claim for cleaning expenses?
3. Is the Landlord entitled to end a fixed term tenancy?

### Background and Evidence

On July 1, 2011, the Tenants entered into a fixed term tenancy agreement (for suite #307) that was to expire on June 30, 2012. A further term of this agreement was that,

*"at the end of the fixed term, "the tenancy may continue for another fixed length of time if a new tenancy agreement is signed and acceptable by both parties 45 days prior to the end of the tenancy, otherwise the tenancy ends at the end of the fixed term and the tenant will be required to vacate the unit before 1:00 p.m. on the last day of the Fixed Term Tenancy."*

On or about December 14, 2011, the rental unit was flooded and the Landlord transferred the Tenants to another suite (#407) in the rental property. The Tenants said they wanted to sign a new one year lease for suite #407 that would expire on December 31, 2012 however the Landlords claimed that they wanted some uniformity with their policy of renewing leases in the mid-year rather than at the end of the year. Consequently, on December 14, 2011, the Parties signed a document called, "Amendment to Lease – Suite Transfer" in which they agreed that the terms of the fixed term tenancy agreement for suite #307 would apply to their tenancy in suite #407 and in particular that the security deposit would be transferred and that the lease would expire on June 30, 2012.

On March 2, 2012, the Landlords sent the Tenants an invoice for cleaning expenses in the amount of \$1,195.16. The Tenants dispute this expense as they claimed they were advised that the Landlords that they would be taking care of all of the clean-up costs. However, the Landlords claim that the Tenants were still responsible when they vacated unit #307 for cleaning areas that were unaffected by the flooding. The Tenants also claim that because they are disputing the cleaning expenses, the Landlords have advised them that they will not be renewing the fixed term tenancy. Consequently, the Tenants sought an Order relieving them from having to pay for the cleaning expenses and requiring the Landlords to renew the tenancy agreement.

The Tenants also sought compensation equal to the amount of their security deposit as they claimed that the Landlords gave them the demand for payment of cleaning expenses more than 15 days after they vacated unit #307.

### Analysis

Section 38 of the Act says that once a tenancy ends and a tenant has given a Landlord their forwarding address in writing, a Landlord has 15 days to return the Tenants' security deposit or to apply for dispute resolution to keep it. If a Landlord fails to take one of those steps and does not have the Tenant's written authorization to keep the security deposit, then the Landlord must return double the amount of the security deposit to the Tenants.

In this case, the Landlords did not retain the Tenants' security deposit to pay for cleaning expenses or any other expenses but instead transferred it to the new rental unit effective December 14, 2011 with the Tenants' written agreement. Consequently, I find that it is irrelevant to the Tenants' application for compensation that the Landlords gave the Tenants an invoice for cleaning expenses more than 15 days after they moved from unit #307 and that part of their application is dismissed without leave to reapply.

I also find that the Tenants' application to relieve them of liability for cleaning expenses is premature because the Landlords have not filed an application for dispute resolution

to make a claim for those expenses. Consequently, that this part of the Tenants' application is premature and it is dismissed with leave to reapply.

The Tenants admit that they were fully aware that when they entered into the tenancy agreement that it contained a term requiring them to vacate at the end of the fixed term if they or the Landlords did not agree to renew the tenancy. The Tenants said the Landlords advised them verbally in December 2011 that it was their intention to enter into a new fixed term tenancy on the expiry of the present tenancy agreement. However, the Tenants argued that had it not been for the flooding, the issue of the cleaning expenses would not have arisen and the Landlord would not now be seeking to end their tenancy. I find that this argument is speculative as any number of events could have transpired over the course of a tenancy that might have influenced the Landlords' (or the Tenants') decision not to renew the tenancy. In this case, I find that even if the Landlords decided not to renew the tenancy because the Tenants refused to pay the cleaning bill (as they claimed) that was their right under the terms of the tenancy agreement. Consequently, I find that there is no basis under the Act or tenancy agreement to grant the Tenants' application to order the Landlords to renew the tenancy agreement and that part of their application is also dismissed without leave to reapply.

### Conclusion

The Tenants' application is dismissed in its entirety. 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 15, 2012.

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Residential Tenancy Branch