



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MND, MNSD

### Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

I have removed the last two respondents from any order issued, because although they were occupants of the rental unit, they are not the tenant who signed the tenancy agreement.

### Issue(s) to be Decided

This is a request for a monetary order for \$1124.18 and a request to retain the full security deposit. The applicant is also requesting recovery of the \$50.00 filing fee.

### Background and Evidence

The parties agree that:

- This tenancy began on December 1, 2007 with the monthly rent of \$1100.00.
- A security deposit of \$550.00 was paid November 19, 2007.
- At the beginning of the tenancy no moving inspection report was done.
- The tenancy officially ended on August 31, 2012, however the tenants vacated on August 14, 2012.
- A forwarding address was given to the landlords on August 27, 2012.

The landlord's testified that:

- The rental unit was newly painted in the beginning of the tenancy.
- The tenants arranged for cleaners and cleaning was done to the tenant satisfaction at the beginning in the tenancy, and then the landlord paid for that cleaning.
- At the end of the tenancy the tenants left the rental unit excessively dirty and as a result extensive cleaning was required at the end of the tenancy.
- The tenants also left the walls in the rental unit with numerous holes, and marks on the walls and as a result walls had to be cleaned, holes filled, and all the walls needed to be repainted.
- The tenants agree to pay for carpet cleaning at the end of the tenancy and agreed to allow the landlord's to have the carpets clean and deduct the cleaning from the security deposit.
- They have supplied photo evidence that shows how dirty the rental unit was, and how much damage there was to the walls in the rental unit.
- There were also numerous light bulbs missing at the end of the tenancy that had to be replaced.
- The tenants also dumped sand from their aquarium on the front of the property which had to be cleaned up. Photos of the tenant's aquarium clearly show that the sand dumped in the yard is the same sand that was in the aquarium.
- In an e-mail received from the tenants they accepted responsibility for a large amount of the need for cleaning and repairs.

The applicants are therefore requesting a monetary order as follows:

Patching and repainting walls	\$1064.00
Professional cleaning	\$362.80
Carpet cleaning	\$134.40
Replace missing light bulbs	\$22.90
Further cleaning	\$70.00
Clean aquarium sand from yard	\$20.00
Filing fee	\$50.00
Total	\$1724.10

The applicants also request an order allowing them to keep the full security deposit of \$550.00 towards the claim and request a monetary order be issued for the difference.

The respondent testified that:

- They did arrange for cleaners of the beginning of the tenancy, and the landlord paid for that cleaning, however those cleaners did not do a thorough job of cleaning, and there was still an extensive amount of cleaning required after the cleaners had finished.
- They did more cleaning at the beginning of the tenancy than would be required at the end of the tenancy, as they also did extensive cleaning before vacating.
- They did not put an unreasonable number of nail holes in the walls of the rental unit. They did hang items on the walls but this is normal wear and tear. Further landlords have to expect to have to repaint after such a long tenancy.
- They did not dump sand from their aquarium in front of the landlord's property, and in fact since that area is open to the public, the sand could have been dumped by anyone.
- Further since the landlords failed to do a move in inspection at the beginning in the tenancy, the landlords have waived the right to claim against the security deposit for damages and therefore they are asking for return of double their security deposit.

- We also do not agree to the amount claimed by the landlord's for carpet cleaning, because they were willing to clean the carpets and they had a quote of \$84.95.
- They do agree to a portion of the claim for light bulbs, however they left two light bulbs for the landlord's and therefore they only agreed to \$15.27.

The respondent is therefore request that the landlords be ordered to return double their security deposit, less \$84.95 for carpet cleaning, and \$15.27 for light bulbs.

### Analysis

#### Security deposit

The landlords failed to do a move in inspection report as required by the Residential Tenancy Act and therefore they have extinguished the right to claim against the security deposit for damages. Further since they did not have the right to claim against the security deposit for damages, they were required to return the security deposit within 15 days of the end of the tenancy, or the date they received a forwarding address in writing, whichever is the later.

This tenancy ended on August 31, 2012 and the landlord had a forwarding address in writing by August 27, 2012 and therefore they were required to return the security deposit by September 15, 2012, and since they did not the Act requires that the security deposit be paid double.

The landlords have argued that they applied for dispute resolution within the 15 day time limit; however that only applies if they have the right to claim against the security deposit for damages, and in this case they did not have that right.

The tenants paid a security deposit of \$550.00, and therefore the amount of security deposit must be returned is \$1100.00 plus \$9.32 interest, for a total of \$1109.32.

### Patch and paint walls

It is my finding that the landlords have shown that the tenants left the walls with damages that exceed normal wear and tear, and therefore I will allow portion of the landlord's claim for patching and painting the walls. The photo evidence clearly shows an excessive number of holes in the walls, along with writing and pencil marks.

I will not allow the full amount claimed for patching and painting walls however, because landlords have to expect to repainting walls in the rental unit approximately every three years and this tenancy exceeded that length.

Is my decision that I will allow one half the cost of patching and painting the rental unit, as I'm sure at least 50% of the cost was for filling holes and preparing the walls for painting.

### Cleaning

It's my finding that the landlords have shown that the tenants left this rental unit in need of extensive cleaning.

The tenants claim to have cleaned the rental unit however the photo evidence clearly shows that the cleanliness was very substandard.

The tenants claim also that the rental unit was in need of extensive cleaning when they moved in, however they also supplied an invoice that shows of the rental unit was cleaned when the tenants moved in and although they claim it was not cleaned properly is my finding that they have not met the burden of proving that claim.

### Carpet cleaning

The landlords did ask the tenants not to clean the carpets when they vacated and stated that they would have them cleaned and deduct it from the security deposit, however it's my finding that the tenants are only responsible for the amount they've agreed to, as that's the amount they would likely have paid had they arranged the cleaning themselves at the end of the tenancy.

#### Missing lightbulbs

I allow the landlord's full claim for missing light bulbs, because although the tenants claim to left light bulbs behind, they have supplied no evidence in support that claim.

#### Cleaning up aquarium sand

I also allow the landlord's claim for cleaning up aquarium sand. The tenants claim that they did not dump aquarium sand in front of the landlord's property, however the photo evidence clearly shows that the color of the sand is the same as the color sand the tenants had in their aquarium, and I find it very unlikely that someone else would come along and dump aquarium sand in front of the rental unit at the same time as the tenants were vacating.

#### Filing fee

I also allow the landlord's request for recovery of the filing fee.

#### Conclusion

The total amount of the landlord's claim I have allowed is as follows:

Patching and prepping walls for painting	\$532.00
Professional Cleaning	\$362.88
Carpet cleaning	\$84.95

Replace light bulbs	\$22.90
Extra cleaning	\$70.00
Clean up aquarium sand	\$20.00
Filing fee	\$50.00
Sub-Total	\$1142.73
Minus double security deposit plus interest	-\$1109.32
Total order issued	\$33.41

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: December 05, 2012.

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Residential Tenancy Branch