



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MND, MNDC, MNR, MNSD

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background, Evidence and Analysis

As explained to the parties during the hearing, the onus or burden of proof is on the party making the claim. In this case, the landlord must prove their claim. When one party provides evidence of the facts in one way, and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

The tenancy began on January 1, 2005 and ended on February 15, 2013. The tenants were obligated to pay \$1050.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$425.00 security deposit. Both parties agreed that neither a tenancy agreement nor condition inspection report was ever used or written.

I address the landlord's claims and my findings around each as follows.

**First Claim-** The landlord is seeking unpaid rent of \$525.00 for the time period of February 15, 2013 – February 28, 2013. The tenant initially disputed this claim but after consulting with the Branch he conceded his error and had no issue with this claim. I find that the landlord is entitled to \$525.00

**Second Claim-** The landlord is seeking \$5.92 for electricity and \$16.53 for natural gas for the time period of February 11-15, 2013. The landlord stated that the tenants cancelled their service on February 10, 2013 but remained in the unit until February 15, 2013. The tenant acknowledged that he remained in the unit until that date, however he was “pretty sure” he had paid for his utilities. The landlord submitted documentary evidence to support their claim. I find that that the landlord has proven this claim and is entitled to \$22.45 for the recovery of utilities cost.

**Third Claim –** The landlord is seeking \$66.50 for the costs of removing rubbish and items left by the tenant to the local land fill. The tenant acknowledged that he had left a lot of garbage and was sorry about that but doesn’t think it would cost that much to haul away garbage. The landlord provided documentary evidence to support their claim. I find that the landlord is entitled to \$66.50.

**Fourth Claim-** The landlord is seeking \$175.00 for labour costs to clean the yard. The tenant adamantly disputes this claim. The tenant stated that the yard was very messy and that he left the yard cleaner than when he got it at move in. It was explained in great detail to both parties the importance of the condition inspection report. The report is a vital tool that assists both parties in having a sound and successful tenancy. The landlords stated that “we didn’t know we had to do it”. During the hearing the landlords advised that they have been informed of its importance and understand the requirements as outlined in the Act. Based on the lack of report or any or any other evidence to provide a “snapshot” of the condition of the yard at move in versus move out, I am unable to ascertain the changes in its condition, if any and accordingly dismiss this portion of the landlords application.

**Fifth Claim –** The landlord is seeking \$29.96 for drywall materials, \$46.47 for paint, \$389.76 for a bathroom counter and vanity, and \$250.00 for the labour to conduct this work for a total of \$716.19. The landlord stated that the tenant had put up wallpaper and applied a mortar and stone counter top in the bathroom. The landlord stated it was not an acceptable look and seeks the costs of conducting the work. The tenant adamantly disputed this claim. The tenant stated that the work had been done about four years ago and that the landlord did not mention that it was not acceptable. The tenant stated that the landlord had been in the unit several times since the work was done. The tenant stated that the landlord allowed the tenants to conduct renovations or repairs as they see fit. The landlord did concede that the goal was to sell the house to the tenant. The landlord stated that he was not in a position to spend any money on renovations so he allowed the tenants to conduct repairs and upgrades as long as he didn’t incur the costs.

As I have referred in the fourth claim and made note several times during the hearing, in the absence of the condition inspection report it is difficult to compare the changes in the bathroom unit. In addition, the landlord conceded that he allowed the tenants to conduct work not only in the bathroom but throughout the property. I find that the landlord has not provided sufficient evidence to support this claim and therefore dismiss this portion of his application.

As for the monetary order, I find that the landlord has established a claim for \$613.95 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee for a total award of \$663.95. I order that the landlord retain the \$425.00 deposit and the \$15.03 in interest which has accrued to the date of this judgment in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$223.92. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

#### Conclusion

The landlord is granted a monetary order for \$223.92. The landlord may retain the 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: May 29, 2013

---

Residential Tenancy Branch

