



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes MNR, MND, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for a monetary order for damage to the rental unit, for unpaid rent or utilities, to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

### Issue(s) to be Decided

Are the Landlords entitled to monetary compensation from the Tenants?

### Background and Evidence

This tenancy began on December 1, 2012, with the parties entering into a standard form written tenancy agreement, showing signature dates of November 20, 2012. The monthly rent was \$1,050.00, payable on the first day of the month. It is important to note the tenancy agreement set out that the rent included “heat” and that “electricity will be shared”.

The Tenants also paid a security deposit and a pet damage deposit; however, the Landlords testified that these had already been returned to the Tenants, despite their Application claiming against the deposits.

The Tenants vacated the property on or about April 1, 2013.

The Landlords have provided a copy of a condition inspection report in evidence; however, both parties agree that no incoming or outgoing condition inspection reports were performed in accordance with the Act. For example, the Landlords did not perform a condition inspection report in accordance with the Act at the outset of the tenancy. The Landlords simply filled in the form after the tenancy and submitted it in evidence.

The Landlords are claiming \$250.56 for unpaid electricity bills. The Landlords claim the Tenants were responsible for 35% of the bills and this amount represents that portion owed by the Tenants.

The Landlords claim the bedroom carpet required cleaning and request \$48.49 in compensation.

The Landlords are claiming that light bulbs had burnt out and were not replaced and claim \$77.92 in compensation.

The Landlords claim the Tenants' dog chewed on some of the baseboards in the rental unit and that the dog had urinated on the floor causing damage to the laminate hardwood floors, and claim \$26.73 for the baseboards and \$160.00 in labour for repairing the floors and baseboards. The Landlord had an extra supply of boards for the floor.

The Landlords claim they had to clean portions of the rental unit and fix walls in the rental unit and claim \$75.00 for cleaning and repairing.

The Landlords claim that the time spent repairing and cleaning the rental unit caused them a delay in having their new renters move in. The Landlords request compensation for a portion of the rent lost for that month in the amount of \$412.74.

The Tenants reply to the Landlords claims saying they initially understood they would pay \$25.00 per month for electricity. The Tenants explained they were confused with the Landlords requesting more than that for electrical bills, because part of their heat in the rental unit came from electrical sources and they feel the majority of the electrical bills were incurred by the Landlords in the upper portion of the rental unit.

The Tenants testified they eventually agreed to pay the Landlords 35% of the bills, however, the Tenants further testified that the Landlords never agreed to accept the

35% for the electrical and the Landlords kept changing their stories. During the hearing, the Tenants agreed to pay the Landlords \$114.72 for the electrical bill.

In reply to the Landlords' carpet cleaning claims, the Tenants provided in evidence a copy of a bill for rental of a carpet cleaning machine. The Tenants further testified that their dog never entered their bedroom unit and they always had the door shut.

The Tenants allege that this was an illegal suite and there were problems with the electrical system such that electrical breakers were always "popping off", which is what caused the light bulbs to burn out so often. For example, they allege the Landlords asked them not to use the clothes dryer in February of 2013 due to the electrical situation.

As to the damage to the baseboards and flooring, the Tenants allege that these damages were there prior to them moving in. The Tenants deny that they or their dog caused damage to the rental unit. The Tenants further alleged that the Landlords may have rented to people with dogs in the past, and that their dog did not damage the carpet or the rental unit baseboards.

The Tenants also dispute that the Landlord had to delay the move in of the next renter. They say the new renter's property was there on April 1, 2013, when they returned the keys to the Landlords.

The Landlords replied that they were not sure where the Tenants arrived at the figure of \$25.00 per month for the electrical bills.

The Landlords also stated they did agree to the 35%, but they did not receive any payment from the Tenants for the bills at all.

### Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find as follows.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;

2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

In this instance, the burden of proof is on the Landlords to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenants. Once that has been established, the Landlords must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlords did everything possible to minimize the damage or losses that were incurred.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

In this instance the Landlords say the Tenants and their dog damaged the rental unit and the Tenants say they did not. I find that the failure to conduct condition inspection reports has caused the Landlords to suffer a lack of evidence about the condition of the rental unit at the outset of the tenancy. I find the Landlords had insufficient evidence to prove the Tenants or their dog damaged the rental unit, and thereby violated the Act or Tenancy Agreement. For these reasons I dismiss the majority of the Landlords' claims.

I do find that the Tenants had agreed to pay towards the electrical bill; however, the terms of the payments were vague to the point where the terms were uncertain for either party, particularly when it is considered that heat was to be included with rent although some of it was supplied through the electric system.

I do find that the Tenants agreed to pay the Landlords the sum of \$114.72 for the electrical bill during the hearing, and therefore, I order them to pay that amount to the Landlords.

As the Tenants could have paid this to the Landlords before the hearing but did not, I find it was necessary for the Landlords to proceed with this Application. Therefore, I order the Tenants to pay a portion of the filing fee for the Application to the Landlords, in the amount of \$20.00, which reflects the Landlords' limited success here.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Landlords have established claims in the amount of **\$134.72**, comprised of \$114.72 for the electrical bill and \$20.00 towards the filing fee for the Application and I grant the Landlords an order under section 67 for the balance due.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

#### Conclusion

The Landlords had insufficient evidence to establish that the Tenants breached the Act or the tenancy agreement, although the Tenants did agree they owed the Landlords for an electrical bill.

I grant the Landlords a monetary order for the electrical bill and a portion of the filing fee for the Application in the total amount of **\$134.72**.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: July 22, 2013

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Residential Tenancy Branch

