



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

LANDLORD: MNR, MND, MNDC, MNSD, FF  
TENANT: MNSD, FF

### Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlords and the Tenant.

The Landlords filed seeking a monetary order for compensation for damage to the unit site or property, for damage or loss under the Act, the regulations or the tenancy agreement, for unpaid rent, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Tenant filed seeking a monetary order for the return of the Tenant's security deposit and to recover the filing fee for this proceeding.

Service of the hearing documents by the Landlords to the Tenant were done by registered mail on June 12, 2013, in accordance with section 89 of the Act.

Service of the hearing documents by the Tenant to the Landlords were done by registered mail on August 2, 2013 in accordance with section 89 of the Act.

The Tenant and the Landlords confirmed that they had received the other party's hearing packages.

### Issues to be Decided

#### Landlord:

1. Are there damages to the unit, site or property and if so how much?
2. Are the Landlords entitled to compensation for the damages and if so how much?
3. Are there damages or losses to the Landlords and if so how much?
4. Are the Landlords entitled to compensation for damage or loss and if so how much?
5. Is there unpaid rent and if so how much?
6. Are the Landlords entitled to unpaid rent and if so how much?
7. Are the Landlords entitled to retain the Tenant's security deposit?

#### Tenant:

1. Is the Tenant entitled to the return of the security deposit?

### Background and Evidence

This tenancy started on May 1, 2013 as a month to month tenancy. Rent was \$1,100.00 per month payable on the last day of each month. The Tenant paid a security deposit of \$550.00 on April 20, 2013.

The Landlords said the Tenant moved out of the rental unit at the end of May, 2013 and a new tenant moved into the rental unit on June 1, 2013. The Landlords said a move in condition inspection report was completed and signed on April 20, 2013 with the Tenant. The Landlords said they gave the Tenant a copy of the report on the same day. The Landlords continued to say a move out condition inspection report was done with the Tenant May 28, 2013, but the Tenant did not agree with the Landlord's assessment of the condition of the rental unit and the Landlords said the Tenant would not complete the report or sign it.

The Landlords continued to say the Tenant was the first tenant in the rental unit after renovations were completed and as the condition inspection reports indicate the Tenant caused damage to the rental unit. The Landlords said there was damage to the walls and deep scratches to the wood flooring. The Landlords said they are claiming \$134.03 in materials and 5 hours of labour at \$25.00 in the amount of \$125.00. The Landlords submitted paid receipts for the work done to date and said that there will be more labour costs when the work is completed.

The Landlords said they are also claiming 10 days of unpaid rent because of an early move in for the time period of April 20, 2013 to May 1, 2013 when the Tenant's roommate moved furniture into the unit and lived there. The Landlords said they had agreed to let the Tenant move furniture in but did not agree to the roommate living in the unit. The Landlords said they are claiming \$354.84 in unpaid rent.

The Tenant said the rental unit was newly renovated and there was still some mess from the work that was done when they started to move furniture in. The Tenant said the Landlords gave her the keys April 20, 2013 and said it was fine to start moving in on April 20, 2013 if the Tenant would finish the clean up. The Tenant said she and her roommate moved furniture into the unit, but the Tenant and the roommate did not move in until May 1, 2013. The Tenant said she is not responsible for any rent from April 20, May 1, 2013 as the Landlords had agreed to the early move in at no cost.

The Tenant continued to say that she did cause some damage to the wall of the unit, but she believed it was normal wear and tear and therefore the Landlords' are responsible for the repairs. As well the Tenant said the Landlord did not give her a copy of the move in condition inspection report and the Tenant said she did not get a copy of the move out condition inspection report until the hearing package came to her in mid June, 2013.

The Tenant continued to say that this was her first rental and she did not understand the reports and how to complete them. The Landlord said they explained the condition inspection report to the Tenant on move in and they believe she understood the reports.

The Tenant said she did not damage the rental unit and she cleaned it before moving so she is requesting the return of her security deposit of \$550.00 and the filing fee of \$50.00.

### Analysis

With respect to the Landlords' claim for unpaid early move in rent of \$354.84, there is contradictory testimony from the parties. The Landlord said the roommate move in to the unit without permission. The Tenant says the Landlord gave permission to move in and the Tenant and the roommate did not move in until May 1, 2013. It was agreed that the Tenant did not move in until May 1, 2013 as the tenancy agreement states. As there is no written agreement on the terms for an early move in time of April 20, 2013 and the keys were give to the Tenant on April 20, 2013; I accept the Tenant's testimony that there was no rent requested for the time of April 20, 2013 to May 1, 2013 by the Landlords prior to the Landlords making their application. As there is no evidence to support the Landlords' claim that rent was due for the time period of April 20, 2013 to May 1, 2013; I dismiss the Landlords' claim for unpaid rent in the amount of \$354.84.

Section 23 and section 35 of the Act say that a landlord and tenant must do condition inspections to establish the condition of the rental unit at the start and the end of the tenancy. I find the Landlord has complied with the Act and therefore has established grounds for a damage claim.

Section 32 of the Act says;

**Landlord and tenant obligations to repair and maintain**

**32** (1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

I accept the Landlords' testimony and evidence that the Tenant damaged the rental unit beyond normal wear and tear and I find the Landlords have established grounds to be awarded \$134.03 in materials to repair the damage and \$125.00 in labour costs to do the work. I award the Landlords' \$259.03 in damages.

As the Landlords have been partially successful in this matter, they are also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlords pursuant to s. 32, 38(4) and s. 72 of the Act to keep \$259.03 of the Tenant's security deposit for damages and \$50.00 of the security deposit for the Landlords' to recover the filing fee from the Tenant. I order the Landlord to retain \$309.03 of the Tenant's security deposit as full settlement of the Landlords' application. Further I order the Landlord to return the balance of the Tenant's security deposit in the amount of (\$550.00 less \$309.03) \$240.97 forth with.

With respect to the Tenant's application I find the Tenant has not established grounds to receive the full deposit returned as the Tenant did cause damage to the rental unit and was aware of the damage through the condition inspection reports completed by the Landlords. Therefore I dismiss the Tenant's application for the full security deposit to be returned.

As the Tenant was unsuccessful in this matter I order the Tenant to bear the \$50.00 cost of the filing fee for her application that she has already paid.

### Conclusion

The Landlords are ordered to return \$240.97 of the Tenant's security deposit forth with.

The Tenant's application is dismissed without leave to reapply.

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: September 17, 2013

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Residential Tenancy Branch

