



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Turnkey Investments Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND MNR MNSD MNDC FF

### Introduction

This hearing dealt with applications by the landlord and the tenants. The landlord applied for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenants claimed double recovery of the security deposit and further monetary compensation. Both landlords and both tenants participated in the conference call hearing, on both dates.

The hearing first convened on October 21, 2013. On that date, I did not have the tenants' application before me and was not aware that they had made an application to be joined and heard with the landlord's application. I therefore adjourned the hearing.

The hearing reconvened on December 12, 2013. On that date the landlord stated that they had sent an amendment of their claim to the tenants by registered mail on October 22, 2013. The registered mail was returned to the landlord, so they re-sent it by registered mail. I found that the tenants were deemed served with the landlords' amendment on October 27, 2013, and I allowed the amendment, increasing the landlords' monetary claim by \$1,150 for lost rental income for one month.

I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?  
Are the tenants entitled to monetary compensation as claimed?

## Background and Evidence

The tenancy began on October 15, 2009. Rent in the amount of \$2800 was payable in advance on the first day of each month. The rental unit is a house comprised of an upstairs suite and a downstairs suite, and the tenants rented the whole house. At the outset of the tenancy, the tenants paid the landlord a security deposit of \$1400 and a pet deposit of \$500. On October 14, 2009 the landlord and the tenants carried out a move-in inspection and completed a condition inspection report. Beginning in December 2012, the tenants paid the landlord an additional \$125 per month in rent.

The tenancy ended on June 30, 2013. The landlord and the tenants carried out a move-out inspection. On the condition inspection report, then tenants indicated that they agreed that the report fairly represented the condition of the rental unit, and a note on the report indicated that the tenants "will attend to items not yet attended to on list dated 19 June 2013." However, the tenants did not agree to any amounts being deducted from their security or pet deposits. The landlord made their application to keep the security deposit on July 16, 2013. They also returned the \$500 pet deposit to the tenants on that date.

### *Landlord's Evidence*

The landlord stated that at the end of the tenancy there was quite substantial damage to the house and garden. The landlord stated that because the lower unit was in such poor condition, they were unable to rent the lower unit and therefore claimed \$1,150 in lost revenue for the downstairs unit for July 2013. The landlord submitted a signed invoice dated July 12, 2013, for repairs in the interior of the unit, in the amount of \$1,043.25; and an undated, unsigned invoice for \$936 for landscaping. The landlord also submitted a water bill for \$266.93 for water use, plus an estimated adjustment from June 8 to June 30, 2013 in the amount of \$54.28. The landlord claimed an estimated \$950 to fill holes and paint upstairs, and an estimated \$50 to replace the glass in the shed door. In support of their claim, the landlord also submitted a copy of the move-in and move-out condition inspection report and photographs of the interior and yard of the rental unit and property.

The landlord submitted that there is a note on the condition inspection report that states that at the end of the tenancy the tenants "will attend to items not yet attended to on list dated 19 June 2013," and that as the tenants did not complete those items, they were consenting to deductions from their security deposit. The landlord stated that they did not apply to keep the security deposit and return the pet deposit until one day after the 15-day deadline because they understood that they were still negotiating with the tenants up to that time.

### *Tenants' Evidence*

The tenants claimed double recovery of the pet and security deposits, less the \$500 that the landlord reimbursed late, on the basis that the landlord failed to apply for or return both deposits within 15 days of the date that the tenants gave the landlord their forwarding address in writing.

The tenants have also claimed recovery of rent overpayments of \$125 per month for seven months, on the basis that the landlord illegally raised the rent and the tenants did not agree in writing to the rent increase. The tenants stated that the landlord told the tenants that the expenses for the house increased, and the tenants felt coerced into paying the increased rent.

In regard to the landlord's application, the tenants acknowledged responsibility for the water bill and the broken door, but they disputed the remainder of the landlord's claim. The tenants stated that the house was old, and during the tenancy the landlord promised to do required repairs but failed to do them. The tenants were suspicious of the landlord's invoices, as the amounts changed. The tenants stated that the landlord's pictures of the lawn were taken one month before the end of the tenancy, and the tenants had people in. The tenants felt that they were maintaining things the way they were supposed to, and they made improvements to the house.

### Analysis

Upon consideration of the evidence, I find as follows.

#### *Landlord's Claim*

I find that the landlord is entitled to \$321.22 for the water bill and \$50 for the broken door, as the tenants acknowledged these amounts.

I find the remainder of the landlord's application problematic, as some portions of the claim are only for estimates, and the photographic evidence of the interior and exterior of the house is insufficient, in my view, to establish the extent of work that the landlord claims was required. Further, the landlord did not provide the age of the paint, flooring or other items to take in to account depreciation. However, the landlord's photographs and the move-out inspection report, which the tenants signed to indicate they agreed with the report, show that there was some damage at the end of the tenancy, including chips in the walls and trim in the entry, the living room and the main bathroom; paint pulled off in a bedroom closet; damage to the landscaping; and drywall cut out of the

ceiling of the family room. I therefore find it reasonable to grant the landlord a nominal amount of \$300 for repairs and landscaping.

I find that the landlord is not entitled to lost revenue for the lower suite, as the tenancy agreement was for the entire house, not separate agreements for the separate units.

#### *Tenants' Claim*

I find that the tenants are entitled to double recovery of the pet and security deposits, less the \$500 that the landlord has already returned. The landlord failed to comply with section 38 of the Act, which requires the landlord, within 15 days of the later of the two of the tenancy ending and the tenant providing a forwarding address in writing, to either return the deposits or make an application to keep the deposits. The tenants are therefore entitled to \$3300 for this portion of their claim.

I find that the tenants are entitled to recovery of the increased amount of rent paid, in the amount of \$875. The landlord failed to properly notify the tenants of an increase in rent in compliance with the Act. If a landlord collects a rent increase that does not comply with the Act, the tenant may deduct the increase from rent or otherwise recover the increase.

#### *Filing Fees*

As the landlord's claim was mostly unsuccessful, I find they are not entitled to recovery of the filing fee for the cost of their application.

As the tenants' claim was successful, they are entitled to recovery of the \$50 filing fee for the cost of their application.

#### Conclusion

The landlord is entitled to \$671.22. The tenants are entitled to \$4225. I grant the tenants an order under section 67 for the balance due of \$3553.78. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: January 6, 2014

---

Residential Tenancy Branch

