



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNSD, FF

### Introduction

There are applications filed by both parties. The Landlord has filed an application for a monetary order for money owed or compensation for damage or loss, to keep all or part of the security deposit and recovery of the filing fee. The Tenants have also filed an application for a monetary order for the return of the security deposit and for money owed or compensation for damage or loss and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. The Landlord has confirmed receipt of the Tenant's documentary evidence. The Tenant has also confirmed receipt of the Landlord's documentary evidence. As both parties have attended and have confirmed receipt of the notice of hearing packages and the submitted documentary evidence, I am satisfied that both parties have been properly served.

### Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

Is the Tenant entitled to a monetary order?

### Background and Evidence

The Landlord states that there is a signed tenancy agreement, but did not submit it. The Tenant disputes this stating that there was never a signed tenancy agreement. Both parties agreed that the Tenancy began on November 1, 2011 and ended on either October 1, 2013 or October 4, 2013. Both parties agreed that the monthly rent was \$1,675.00 and that a security deposit of \$800.00 was paid. Both parties also agreed that the Landlord received the Tenant's forwarding address in writing on October 4, 2013.

The Tenant seeks a monetary order for the return of double the security deposit because the Landlord failed to comply with the Residential Tenancy Act and is claiming

\$1,650.00. This consists of \$1,600.00 (\$800.00 + \$800.00) plus \$50.00 for the filing fee.

The Landlord seeks a monetary claim of \$699.23. This consists of \$200.00 for cleaning for 8 hours at \$20.00 per hour, \$350.00 for yard cleaning for 14 hours at \$25.00 per hour, \$102.50 for the cost of specialty carpet cleaning for a strong dog odor and \$46.73 for the cost of restarting the oil furnace.

The Landlord states that the Tenants left the rental unit and discovered that it required extensive cleaning inside that took 8 hours. The Landlord relies on photographs submitted to support their claim which shows extensive dirt primarily in the windows, shower and the stove. The Landlord states that she paid two workers cash, but have not provided any details of the work performed or any record of payments for cleaning. The Tenants dispute this claim stating that the rental unit was left clean when they vacated the rental unit. The Tenants have also submitted photographs of the rental unit which depict a clean rental.

The Landlord also states that extensive yard work was required that took 14 hours of labour to fix. The Tenant disputes this claim stating that they were only responsible for cutting the grass. The Landlord states that this was a verbal agreement for the Tenants to maintain the yard.

The Landlord seeks recovery of \$102.50 for a specialty carpet cleaning because of a strong dog odor from the bedroom carpet. The Tenant disputes this stating that the unit was left clean and that the Landlord never conducted a condition inspection report and never mentioned this issue before. The Landlord relies on the submitted Citrus Invoice for the specialty cleaning which was noted by the technician, "Heavy Dog Odor in one room, recommended specialty clean high traffic areas, rust stain in bedroom."

The Landlord also seeks compensation for \$46.73 as shown by the Columbia Fuels invoice. The Landlord states that the rental unit oil furnace was left dry and required a service call to bleed and re-start the furnace. The Tenants dispute this claim stating that they have never used the furnace relying primary on the wood fireplace.

### Analysis

On the claims of \$200.00 for cleaning, I find that I prefer the evidence of the Tenant over that of the Landlord. Both parties rely on photographic evidence which cannot provide a conclusive comparison. In this case the Landlord has failed to provide sufficient evidence to satisfy me of the claim. There is no condition inspection report for the move-in or the move-out from which to provide context of the condition of the rental

unit. The Landlord has also failed to provide any proof of loss regarding the \$200.00 claim or that it took 8 hours to clean. The Landlord states that she paid two persons cash to clean this, but has provided no supporting evidence to satisfy me. This portion of the monetary claim is dismissed.

For the \$350.00 claim on yard cleaning, I also find that the Landlord has failed to provide sufficient evidence of this claim. This claim is disputed by the Tenant and the Landlord has not provided any proof of an agreement to maintain the yard beyond lawn cutting. No signed tenancy agreement was provided that would list the responsibilities of both parties regarding maintenance. The Landlord has also failed to provide sufficient evidence/details of the claim of 14 hours required for yard maintenance or why the Landlord was claiming at a rate of \$25.00 per hour. This portion of the monetary claim is dismissed.

On the claim of \$46.73, I find that the Landlord is successful. Although the Tenant dispute this claim, I find based upon the Citrus invoice the amount paid and that it confirms a "Heavy Dog Odor in one room". I find that this is sufficient to satisfy me that the Tenants failed to properly clean this room. The Landlord is successful in this portion of the claim.

As for the claim for \$46.73 to restart the oil furnace, I find that the Landlord has failed. The Tenants have disputed this claim stating that the furnace was never used and instead relying solely on the fireplace. The Landlord has not provided sufficient evidence that the furnace was in properly working order at the beginning of the tenancy or that the Tenants ever used this oil furnace. The Landlord's invoice from Columbia only states that this was a service call. This portion of the claim is dismissed. Section 38 of the Residential Tenancy Act speaks to the return of a security deposit. It states,

38 (1) Except as provided in subsection (3) or (4) (a), **within 15 days after the later of**

(a) **the date the tenancy ends, and**

(b) **the date the landlord receives the tenant's forwarding address in writing,**

**the landlord must do one of the following:**

(c) **repay**, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) **make an application for dispute resolution** claiming against the security deposit or pet damage deposit.

Both parties confirmed that the Landlord received the Tenant's forwarding address in writing on October 4, 2013 and that the Landlord filed for dispute resolution on October 16, 2013. This is clearly within the allowed 15 day period as noted in Section 38 (1). The Landlord has complied with the Act and the Tenant's claim for the return of double the security deposit is dismissed.

The Landlords have established a total monetary claim of \$102.50. The Landlord is also entitled to recovery of the \$50.00 filing fee.

The Tenants have established a total monetary claim of \$800.00 for the return of the security deposit. The Tenants are also entitled to recovery of the \$50.00 filing fee.

In offsetting these claims, I grant the Tenants a monetary order for \$697.50 and I order that the Landlords retain the difference of \$152.50 in satisfaction of the claim. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The Tenants are granted a monetary order for \$697.50.  
The Landlords may retain \$152.50 from 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: January 24, 2014

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Residential Tenancy Branch

