



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNSD, MNDC, FF

### Introduction

This was a hearing with respect to the landlords' application for a monetary order and an order to retain the tenants' security deposit. The hearing was conducted by conference call. The landlords and the named tenant called in and participated in the hearing.

### Issue(s) to be Decided

Are the landlords entitled to a monetary award and if so, in what amount?  
Are the landlords entitled to retain the tenants' security deposit?

### Background and Evidence

The rental unit is a apartment Delta. The tenancy began in February, 2013. The monthly rent was \$1,475.00, payable on the first of each month. The tenants paid a security deposit of \$737.50 on February 2, 2013.

The landlords testified that the tenants moved out on November 8, 2013 without giving any notice and without paying rent for November. The landlords testified that the tenants paid only a half month's rent for October and paid no rent for November. The landlords did not submit an itemized list of their monetary claims. They said at the hearing that in addition to unpaid rent and lost revenue, including loss of rent for December, the landlords were claiming \$135.91 for plumbing work, \$72.17 for unspecified repairs, \$336.00 for the cost to repair a broken garburator damaged by the tenants and \$1,965.28 for painting. The landlords said the painting was necessary because of damage and because the tenants painted parts of the rental unit improperly with unacceptable colours.

The tenant testified that the landlords were aware that the tenants would be moving out in November, even though they did not give written notice to the landlords. He said that the landlords' claim was an attempt by the landlord to recoup loss that they suffered because there was a leak from the rental unit cause by an improperly installed dishwasher that caused damage to the condo below the rental unit. The tenant said that the landlords did not have proper insurance and were trying to recover \$15,000.00 in damages that they suffered because they did not have insurance. The tenant said that they move because the rental unit was unliveable. He disputed the claim for painting and testified that he had painted the master bedroom himself and had not been reimbursed for the cost of the paint. The tenant denied that he caused any damage to the rental unit or that he damaged the garburator. The tenant said that there were other deficiencies during the tenancy, including a leaking shower, a clogged sink and broken toilets. The tenant said he had to pay a plumber to make repairs and was never reimbursed. The tenant said they were without a dishwasher from sometime in September until November 5<sup>th</sup> because the landlord did not replace it for almost two months.

The landlords denied having knowledge that the tenants intended to move out and only discovered that they were moving when they attended at the rental unit and found that the tenants had moved out.

### Analysis

The evidence established that the tenants moved out of the rental unit without giving written notice as required by the *Residential Tenancy Act*. I find that the landlord is entitled to recover unpaid rent for October and for the month of November. The landlord also requested loss of revenue for December because of the tenants' failure to give proper written notice. I do not allow the claim for loss of revenue for December because I do not have evidence from the landlord to establish what steps if any he took to re-rent the unit for December. The landlord has the responsibility to show that he took reasonable steps to mitigate his loss and in the absence of evidence to show steps taken to re-rent the unit, I disallow the claim for December rent.

The landlords did not provide a copy of a condition inspection report performed either on move in or on move out and the only photographic evidence concerning the condition of the rental unit was a picture of an under sink garburator and a picture of some debris and a knife said to have been removed from the kitchen sink drain. The tenant denied damaging the garburator. With respect to the landlords' claims for repairs and painting, the landlords claim that the rental unit required repainting was disputed by the tenants. The tenant said that the unit was not repainted after the tenancy ended. I

was not provided with any photos to show the condition of the rental unit, in particular the painted surfaces and in the absence of condition inspection reports, I deny the landlord's claims for painting. I do not have evidence to establish on a balance of probabilities that the tenants caused damage to the garburator and this claim is denied. Based on the evidence, I do allow the landlords' claim for the cost to fix the kitchen sink drain in the amount of \$50.00.

In the tenant's documentary evidence he submitted an unfiled application for dispute resolution. If the tenants wish to pursue a claim against the landlords, they will have to file and serve their own application for dispute resolution in accordance with the provisions of the *Residential Tenancy Act*.

### Conclusion

Apart from the claims for rent for October and November and the \$50.00 plumbing charge for fixing the kitchen sink, all other claims by the landlords are dismissed without leave to reapply. The total award to the landlords is the sum of \$2,262.50. The landlord is entitled to recover \$50.00 of the \$100.00 filing fee paid for this application, for a total award of \$2,312.50. I order that the landlords retain the security deposit of \$737.50 in partial satisfaction of this award and I grant the landlords an order under section 67 for the balance of \$1,575.00. This order may be registered 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: April 3, 2014

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Residential Tenancy Branch

