



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order for unpaid rent, for damage to the unit, and to recover the RTB filing fee.

Both the landlord and one of the tenants attended the teleconference hearing and gave affirmed evidence.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?  
Is the landlord entitled to a monetary order for damage to the unit?

### Background and Evidence

The parties agree the tenancy started March 1, 2013 and the tenants paid a security deposit of \$500.00 and a pet deposit of \$500.00. The tenancy came to an end on February 28, 2014.

The landlord gave evidence that the agreed rent was \$1,100.00 per month. However, at the time the tenancy started the tenants' house was up for sale. Accordingly, the landlord told the tenants they could pay \$1,000.00 per month until their house sold and then the rent would increase to the full \$1,100.00. One page of a document entitled "Standard Residential Tenancy Agreement" was put into evidence; the document bears the names of the parties but not their signatures. Next to the word "Rent" is a handwritten notation reading "\$1100 – Reduced to 1000 until they sell their home, then the 1100 per month will be paid [illegible] that [illegible]"

The landlord gave evidence that the tenants' house sold in December 2013. At that point, he had forgotten about the rent agreement. He did not remember it until the tenancy was coming to an end when he reviewed the tenancy agreement.

The landlord gave evidence that he conducted a move-out inspection with the male tenant on February 27, 2014. At that point, he told the male tenant that \$100.00 rent was owing for each of January and February 2014. The landlord's evidence is that the tenants did not pay these amounts; he claims \$200.00 in unpaid rent.

The tenants confirm that they agreed to pay the full \$1,100.00 rent once their house sold. Their evidence is that they had forgotten about the arrangement but remembered in early February. The landlord suggested he take the additional \$200.00 from their security deposit. The tenants offered \$100.00 instead of the full \$200.00 but the landlord did not agree.

The landlord also claims cleaning expenses of \$75.00 and damage repair costs of \$250.00. The landlord's evidence is that the rental unit was not left adequately clean, and he consequently hired a cleaner who worked more than three hours. The landlord says:

- the tub was plugged up
- there were bugs in the light fixtures
- the refrigerator and freezer were dirty
- the oven was dirty
- the backsplash had not been wiped
- the blinds had been quickly wiped but were filthy on the other side
- the washer/dryer was not wiped down or clean
- the floors were not completely cleaned
- the fan was filthy
- the toilet had not been cleaned around the rim or under the bowl
- the tub had not been cleaned

The tenants gave evidence that they hired a cleaning lady who worked for four hours before the move-out inspection, and the female tenant cleaned with her. The tenants gave the following evidence regarding cleaning:

- they swept the floors
- cleaner did a final mop as they were leaving
- during the tenancy, whenever they changed a bulb they took the light fixture cover off and cleaned it
- the kitchen cabinets were vacuumed then cleaned with spray cleaner

- there was no dust on top of the cabinets
- they put the oven through a self-clean cycle the night before, then wiped it out
- the fridge and freezer were perfectly clean
- the blinds were clean although they did not check the back side

The tenants' evidence is that there was a faint ring in the bathtub from use over time. The oven is discoloured from ordinary use; it is 7 or 8 years old.

The landlord gave evidence that a bedroom wall had been damaged by something falling over which scraped the wall on two edges and crushed the baseboard. He contacted some contractors and described the problem over the phone. The contractors told him they would replace the baseboard, patch the wall with putty, and prime and paint the entire wall. He said \$235.000 was the lowest quote he got, because contractors did not want to come out for such a small job. The landlord's evidence is that the wall was last painted about three or four years ago.

The tenants gave evidence that the damage to the bedroom wall was caused by a dresser mirror that slid down the wall behind the dresser. They say the walls were scratched but not gouged, and the major damage was to the baseboard. The tenants state that a length of baseboard could be replaced at a cost of about \$50.00. They say the walls require only a light sanding and a touch-up of the paint.

The tenants gave evidence that the landlord did not give them a copy of the move-out inspection report. The landlord said the male tenant did not wish to sign the move-out inspection report before talking to the female tenant. He did not provide them with an unsigned copy because he was waiting for them to get back to him.

### Analysis

I accept the evidence of the parties that the landlord provided a temporary rent reduction of \$100.00 per month until the tenants' house was sold. The tenants' house sold in December 2013. The landlord is therefore entitled to the additional \$100.00 rent for each of January and February 2014.

I accept the evidence of the parties that the tenants did not sign the condition inspection report at move out, and the landlord did not provide the tenants with a copy of the unsigned report. I find that neither party abided by the requirements of Section 35(4), which provides that both the landlord and tenant must sign the condition inspection report and the landlord must give the tenant a copy of that report in accordance with the regulations.

Section 36(2)(c) says that unless the tenant has abandoned the rental unit, the right of the landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord, having made an inspection with the tenant, does not complete the condition inspection report and give the tenant a copy of it in accordance with the regulations. However, Section 36(2)(c) does not preclude a landlord from making a claim for a monetary order for damage to the rental unit.

In addition, Section 72(2)(b) permits me to apply the security deposit and/or pet deposit to satisfy or partially satisfy any monetary order that I award the landlord. For that reason, I may deal with the landlord's claims and apply the tenants' security and/or pet deposits to any monetary order that I award the landlord.

Section 37 specifies that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. The landlord gave detailed evidence regarding what was lacking in the tenants' cleaning, and the tenants did not refute much of the landlord's evidence. The tenants agree they did not clean or check the backside of the blinds. I find the landlord has proven his claim that an additional three hours of cleaning at a cost of \$75.00 was necessary to bring the rental unit to reasonably clean condition.

I find the landlord is entitled to claim for the cost of the wall repair being completed by a professional, instead of being obliged to do it himself at a lower cost. The law must be applied consistently to all landlords, and not all landlords are capable of professionally repairing walls. I accept the landlord's evidence that the lowest quote he got from contractors was \$235.00. However, a deduction must be made to reflect that the paint was already three or four years old. According to Residential Tenancy Policy Guideline 40 "Useful Life of Building Elements", the useful life of interior paint is four years. Since the bedroom wall paint in this case was already three or four years old, I find it is appropriate to reduce the award for repair and repaint of wall damage by 50%, to \$117.50.

The total amount due the landlord is \$392.50, comprised of \$200.00 unpaid rent, \$75.00 cleaning cost, and \$117.50 for wall repair. The landlord is also entitled to recover his RTB filing fee of \$50.00, for a total monetary award of \$442.50. I order that the landlord retain \$442.50 from the security deposit in satisfaction of this claim and I order that the landlord return the remaining \$57.50 of the security deposit and the entire \$500.00 pet deposit to the tenants. I grant the tenants an order under section 67 for \$557.50. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

The landlord may retain \$442.50 from the security deposit. I grant the tenants a monetary order for \$557.50.

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: July 08, 2014

---

Residential Tenancy Branch

