



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Rowan Property Management Ltd. (Agent for Owner) N/A  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND, MNSD, FF

### Introduction

This hearing dealt with the landlords' Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by two agents for the landlord and one of the tenants.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for damage to the rental unit; for overholding; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 57, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord provided into evidence a copy of a tenancy agreement signed by the parties on June 25, 2012 for a month to month tenancy beginning on July 14, 2012 for a monthly rent of \$1,000.00 due on the 1<sup>st</sup> of each month with a security deposit of \$500.00 paid.

The tenancy ended on February 28, 2014 as the result of the landlord issuing a 2 Month Notice to End Tenancy for Landlord's Use of Property citing the rental unit would be occupied by the landlords; the landlords' spouse; or a close family member of the landlords. The parties agree the tenants did not vacate the rental unit until March 2, 2014. The tenants do not dispute the landlord's claim for overholding.

The parties also agree that during the tenancy the tenants painted the kitchen cabinetry and that at the end of the tenancy the tenants stripped the paint and varnished the cabinets.

The landlord also provided into evidence a letter from the landlord to the tenants dated February 3, 2014 stating: "The owners feel that by stripping the paint from the kitchen

cabinets would not bring them back to the way they were when you took possession and feel the damage is done and just to leave as is.”

Despite this letter the tenant submitted that they felt that the tone of the letter indicated that the landlord would be pursuing a claim for damaging the cabinets by painting them so they attempted to strip the paint and put a coat of varnish on them.

The landlord submitted into evidence a copy of a Condition Inspection Report that recorded the condition of the cabinets at the start and end of the tenancy. The Report states that at the start of the tenancy the cabinets were in fair condition noting the “finish is wearing”. The Report records the cabinets as damaged noting “unauthorized paint”.

The landlords’ agent confirmed the rental unit is approximately 40 years but they had no information as to when if ever the cabinets had been refinished.

The landlords submitted a quote for work required. The quote stipulates that service provider does not have the equipment to “dip” the cabinet doors to remove existing paint and as such is recommending a replacement door of white PVC. The estimate quote for the purchase of the doors only is 950.00, this does not include installation. The landlord seeks only \$500.00 of this cost.

### Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 57 of the *Act* defines an "overholding tenant" as a tenant who continues to occupy a rental unit after the tenant's tenancy is ended. The section goes on to say that a landlord may claim compensation from an overholding tenant for any period that the overholding tenant occupies the rental unit after the tenancy is ended.

As the tenants do not dispute the landlords’ claim for overholding I find the landlord is entitled to a per diem amount based on the monthly rent of \$1,000.00 for the period of 31 days in March 2014 or \$64.52.

Section 37 of the *Act* requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all keys or other means of access that are in the possession and control of the tenant and that allow access to and within the residential property.

Based on the evidence and testimony of both parties I find that the tenants did not have authority from the landlord to paint the kitchen cabinetry to begin with and that the landlord, after the cabinetry had been painted, had instructed the tenants not to strip the cabinetry.

I also find that the tenants did attempt to restore the cabinets to as close to original condition as possible without specialized equipment, such as a “dip tank” in an attempt to meet their obligations under Section 37 of the *Act*. I also note that at the start of the tenancy the cabinetry was only in fair condition with some of the finish wearing.

However, I find that despite their attempt the tenants failed to completely restore the cabinets. As such, I find the tenants failed to meet their obligations under Section 37 and are responsible for the repairs required, subject to consideration of the useful life of building elements, as outlined in Residential Tenancy Policy Guideline #40.

Policy Guideline #40 stipulates that the useful life of kitchen cabinets is 25 years. However, this amount is the useful life of the cabinetry and not just the finish. The Policy Guideline does not provide specific provision for the finish on kitchen cabinetry.

When items are not included in the Policy Guideline list the guideline states the useful life will be determined with reference to items with similar characteristics in the table. As to specific finishes the Policy Guideline lists the useful life of interior paint as 4 years; exterior paint as 8 years; and hardwood flooring as 20 years.

The useful life of 4 years for interior paint usually refers to painted walls that do not have the same requirements as a finish on cabinetry that is used everyday and may be subject to water and spills and clean up as kitchen cabinetry would require.

The useful life of 8 years for exterior paint usually refers to painted exteriors of buildings and as such should be able to hold up to substantially harder conditions than what would be on an interior wall.

The useful life of 20 years for hardwood flooring usually refers to a requirement to replace the hardwood flooring as opposed to simply refinishing the surface, which may be accomplished multiple times in some cases.

I find that 4 years would be an unlikely timeframe based on the use typically required of kitchen cabinetry. I also find that while exterior paint can be expected to last 8 years this time frame also does not take into consideration the daily usage of kitchen cabinetry and is therefore insufficient length of time.

However, I find that 20 years allowed for replacement of hardwood flooring does take into consideration wear and tear that is much greater on flooring than either interior or exterior walls and even more so than kitchen cabinetry. Therefore I find a reasonable replacement time frame would be 15 years due to the requirements and usage of kitchen cabinetry.

As the landlords have confirmed the age of the rental unit at approximately 40 years and have provided no additional evidence that the cabinetry had been refinished at any time during this period, I find the landlord's claim for compensation must be discounted by 100% as the original cabinetry finishes provided to the tenants at the start of the tenancy have, at the end of the tenancy, far exceeded the useful life of 15 years.

### Conclusion

Based on the above, I find the landlords are entitled to monetary compensation pursuant to Section 67 in the amount of **\$89.52** comprised of \$64.52 overholding and \$25.00 of the \$50.00 fee paid by the landlords for this application, as they were only partially successful.

I order the landlord may deduct this amount from the security deposit held in the amount of \$500.00 in satisfaction of this claim. I grant a monetary order to the tenants in the amount of **\$410.48** for the return of the balance of the security deposit held.

This order must be served on the landlords. If the landlords fail to comply with this order the tenants may file the order in the Provincial Court (Small Claims) and be 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: July 02, 2014

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Residential Tenancy Branch

