



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNDC, MNSD, MNR, RR, FF

### Introduction

This hearing dealt with applications by both the landlord and the tenants. The landlord applied for a monetary order for damage to the unit or property; for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement; to retain all of part of the security deposit; and to recover the RTB filing fee. The tenants applied for a retroactive rent reduction; for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement; for the return of their security deposit; and to recover their RTB filing fee.

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

### Issue(s) to be Decided

Is the landlord entitled to a monetary order as claimed?

Are the tenants entitled to a monetary order as claimed?

Given the outcome of the previous two issues, what should be the disposition of the security deposit?

### Background and Evidence

The parties agree they entered into two consecutive tenancy agreements. The first tenancy agreement was not put into evidence, but the parties agree it was for a six-month fixed term from October 1, 2013 to March 31, 2014. The second tenancy agreement was put into evidence. It indicates the tenancy started April 1, 2014 and was for one-month fixed term after which the tenancy ends and the tenants must move out. The second tenancy agreement indicates the tenants were obligated to pay rent of \$2,700.00 monthly in advance on the first day of the month. The tenants also paid a

security deposit of \$1,350.00 and a note on the second tenancy agreement indicates the security deposit was transferred from the previous term.

The landlord claims the following:

Strata bylaw breach	\$ 500.00	
Lost visitor parking pass	20.00	Tenants agree
Blind cleaning	651.00	
New mirror sliding door set	184.00	Tenants agree
Installation of new door set	100.00	Tenants agree
Oven cleaning	30.00	Tenants agree
<i>Total claim:</i>	<i>\$ 1,485.80</i>	

The landlord gave evidence he provided the tenants with a Form K and the strata bylaws at the beginning of the first tenancy. The landlord says the tenants moved out without advising the strata of their move-out date and time. He provided a copy of a letter from the strata management company which notes there is a \$500.00 fine for an illegal move, and which states "The Strata Corporation will be considering whether fines should be levied for the apparent Bylaw contravention". The landlord gave evidence that he attended a strata council meeting and explained the situation. Asked whether the strata had made a final decision on whether to levy the fine, the landlord did not know.

The tenants agree they moved out without advising the strata manager; they say they were not aware of the bylaw.

The landlord provided a receipt from a blind cleaning service indicating that he paid \$651.00 for cleaning 19 fauxwood blinds. The landlord provided a copy of the Condition Inspection Report completed at the beginning of the first tenancy and at the end of the second tenancy. It indicates "blinds dusty" at move-out.

The tenants say they agreed the blinds were dusty at move-out but say they should not have to pay for cleaning. The tenants gave evidence that the living room was a "construction zone" during much of March and April 2014. They say a contractor created a lot of dust using a skill saw on laminate floor and cutting tile.

The tenants claim compensation of one month's rent (\$2,700.00) for the inconvenience they experienced in March and April 2014, and more minor issues earlier in the tenancy.

The tenants gave evidence there was some water damage visible on the laminate floors at the start of the tenancy, but they understood the leak had been resolved. Over the course of the tenancy, they observed the damaged area of flooring become increasingly larger. They informed the landlord several times, and around the beginning of March 2014 it was discovered there was an ongoing leak. The tenants say that for most of March and April, about half the floors were taken up and concrete exposed. They were unable to use the master bedroom because the floor was taken up and the contractor was at times working there. As well, they were unable to use one of the two bathrooms because of ongoing work. The contractor placed tools on the countertops, making them unavailable for use, and left two large bags of construction garbage in the living room for two weeks. The tenants say the contractor's tile saw created most of the dust on the blinds.

The tenants say they were also caused inconvenience by the landlord's reluctance to fix or replace appliances which broke. Most notably, the dishwasher stopped working and was not replaced for one month.

The landlord says the tenants entered into a new tenancy agreement on April 1, 2014 and did not complain at that time.

### Analysis

Despite having transferred the tenants' security deposit from the first tenancy agreement to the second tenancy agreement, the landlord claims damage that may have arisen in the first tenancy. I will treat the two tenancies as one continuous tenancy for the purpose of the landlord's claim for damages. Similarly, I will consider the tenants' claim for loss of quiet enjoyment for events which span the two tenancy agreements.

The landlord has not proven that he will incur a strata fine of \$500.00 since the strata management letter and the landlord's own evidence indicate the landlord has not received a final decision from the strata corporation. This claim for compensation is therefore dismissed.

Residential Tenancy Guideline 1 "Landlord & Tenant – Responsibility for Residential Premises" contains a section on internal window coverings. The relevant portions state:

2. The landlord is not expected to clean the internal window coverings during the tenancy unless something unusual happens, like a water leak, which is not caused by the tenant.

3. The tenant is expected to leave the internal window coverings clean when he or she vacates ...

In this case, I accept the tenants' evidence that there was a significant amount of construction dust created during the latter two months of the tenancy. I find this was an unusual situation within the meaning of paragraph 2 above, which obligated the landlord to clean the blinds. Although there would have been a small amount of dust on the blinds anyway from the seven months of tenancy, this would not likely have required professional blind cleaning. I find the professional blind cleaning was necessitated by the construction work and the cost is therefore the responsibility of the landlord.

I find the total amount due the landlord from the tenants is \$334.00 (parking pass, mirror doors, and oven cleaning). At issue is whether there is also an amount due the tenants from the landlord.

Residential Tenancy Policy Guideline 6 "Right of Quiet Enjoyment" says, in part:

"It is necessary to balance the tenant's right to quiet enjoyment with the landlord's right and responsibility to maintain the premises, however a tenant may be entitled to reimbursement for loss of use of a portion of the property even if the landlord has made every effort to minimize disruption to the tenant in making repairs or completing renovations."

I accept the tenants' evidence that they did not have use of a dishwasher for one month of the tenancy, did not have use of one of the bedrooms and one of the bathrooms for most of a two-month period, and were inconvenienced by the comings and goings of contractors and having tools, garbage, and dust around their rental unit. I find the landlord did not make every effort to minimize disruption to the tenants.

Arguably, the tenants might have addressed the amount of rent they were paying during the construction period when they signed the second one-month tenancy agreement on April 1, 2014. However, I accept their evidence that the second agreement was done on very short notice.

Considering all the above factors, I find the tenants have proven they suffered a loss of quiet enjoyment of the rental unit and they are entitled to nominal compensation. I set that compensation at one half-month's rent \$1,350.00.

Setting off the amounts the parties owe each other:

- Landlord owes tenants security deposit of \$1,350.00 less \$334.00 = \$1,016.00
- Landlord owes tenants compensation of \$1,350.00
- Total amount due tenants: \$2,366.00

The total amount due the tenants is \$2,366.00. I grant the tenants a monetary order for that amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### Conclusion

I grant the tenants a monetary order for \$2,366.00.

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: October 03, 2014

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Residential Tenancy Branch

