



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MND, MNSD

### Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenants by mailing, by registered mail to post office box provided by the tenants. With respect to each of the applicant's claims I find as follows:

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to a monetary order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

### Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on October 1, 2013 and continue on a month to month basis. The rent was

\$753 per month payable in advance on the first day of each month. The tenants paid a security deposit of \$376.50 and a pet damage deposit of \$376.50 at the start of the tenancy.

The tenancy ended on December 31, 2013.

The Application for Dispute Resolution claims the sum of \$4000 for damage caused by the tenants to the downstairs suite. The landlord testified she received a call from the downstairs tenant that there was a leak originating from the upstairs suite (the rental unit). It took her 5 to 10 minutes to reach the downstairs suite and discovered water leaking from the upstairs rental unit. She then went to the upstairs rental unit (tenants' suite) and discovered that there was a significant amount of water on the bathroom floor. The tenants were in the process of cleaning. The landlord estimated there was a ½ inch pool of water that was leaking through to the downstairs suite. She then returned to the downstairs suite to deal with the clean up.

The tenants deny there was a significant amount of water on the floor or that they were responsible for the leak. They testified the toilet had been leaking for 1 ½ months but the landlord failed to make repairs despite being told of the problem on many occasions.

The landlord presented an estimate dated August 27, 2014 from a contractor that estimates it will cost \$960 to repair but could range as high as \$3210. The repair work has not been completed.

The landlord wrote a letter to the tenants on May 6, 2014 stating that he was going to withhold \$153 of the security deposit/pet damage deposit but that they could expect the return of \$600. The owners of the building decided they wished to claim against the tenants for all of the damage.

### Analysis

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant and is liable to compensate the landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

Analysis:

I am satisfied based on the evidence presented that the tenants were negligent when cleaning and that they are responsible for the damage caused by their negligence. I accept the evidence of the landlord that there was significant water damage to the downstairs suite. The tenants did not inspect the downstairs suite and cannot give any evidence to dispute this testimony.

However, it is difficult assessing the quantum of loss. I determined that part of the damage could have been caused by a leaking toilet which is not the tenants' responsibility. Further, the landlord has not completed the work although the incident occurred over 8 months ago. The estimate for completing the repairs varies from \$960 to \$3210 depending on the condition in the walls and the amount of work that has to be undertaken. The landlord did not produce photographs or other evidence to support its claim. Further, it appears the landlord estimated that it was going to cost \$153 to repair the damage when he wrote the letter to the tenants on May 6, 2014.

In the circumstances, given the limited evidence presented by both parties I determined the landlord has established a claim against the tenants in the sum of \$153 for damage caused by their negligence in cleaning the bathroom. .

Monetary Order and Cost of Filing fee

**In summary I ordered that the tenants pay to the landlord the sum of \$153 plus the sum of plus the \$50 filing fee for a total of \$203.**

Security Deposit

**I determined the security deposit plus pet damage deposit totals the sum of \$753. I ordered that the landlord shall retain the sum of \$203 from the security deposit/pet damage deposit. I ordered that the landlord pay to the tenants the balance of the security deposit/pet damage deposit in the sum of \$550.**

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: September 11, 2014

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Residential Tenancy Branch

