



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW HEARING DECISION

Dispute Codes      FF, MNDC, MNDS, MNDC

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. This matter was originally dealt with on August 5, 2014 whereby the tenant was awarded the return of his security deposit. The landlords subsequently applied for a Review Consideration and were successful in having this hearing scheduled. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

### Issue to be Decided

Should the original decision and order stand or should it be varied or set aside?

### Background, Evidence and Analysis

The tenancy began on April 1, 2013 and ended on March 31, 2014. The tenants were obligated to pay \$1699.00 per month in rent in advance and at the outset of the tenancy the tenants paid an \$849.50 security deposit.

As explained to the parties during the hearing, the onus or burden of proof is on the party making the claim. In this case, the landlord must prove their claim. When one party provides evidence of the facts in one way, and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

I address the landlord's claims and my findings around each as follows.

**First Claim** – The landlord is seeking \$945.00 for having to refinish the hardwood floor in the living room. The landlord stated that the tenant caused deep scratches to the floor from a rocking chair. The landlord provided the condition inspection report along with

photos taken at the end of the tenancy to support their claim. The landlord advised they've yet to undertake the work and that the unit is occupied with new tenants.

The tenant disputes this claim. The tenant stated that at the time of move in there was a large carpet covering the damage. In addition, the tenant stated he doesn't own a rocking chair and feels the damage is regular wear and tear.

Upon reviewing the evidence of both parties I am satisfied that the landlord has proven this claim however, I do not agree with the amount sought. I find that a nominal award is appropriate under the circumstances taking into consideration the age of the floor, the cost to refinish it, the fact the landlord has not undertaken any work and will not in the foreseeable future as the unit is occupied. I find that the landlord is entitled to \$250.00.

**Second Claim-** The landlord is seeking \$420.00 for the replacement blinds for the sliding door that opens to the balcony. The landlord stated that the blinds were slightly bent but still in good and usable condition. The landlord provided the receipt, the condition inspection report and before and after photos to support their claim.

The tenants dispute this claim. The tenant stated that he never once used the balcony or opened the blinds. The tenant stated that the blinds were in poor condition at the start of the tenancy and that they must have been damaged by the landlord when they entered the suite without his permission.

I find that version of events purported by the tenant to be remote at best and lacking credibility. I accept the version as stated by the landlord along with their documentation and find that the landlord is entitled to \$420.00.

**Third Claim –** The landlord is seeking \$346.25 for the repainting of a wall. The landlord stated that the tenants put a "deep scratch" in the wall. The landlord stated that the wall was painted in 2012 and she has yet to conduct this repair.

The tenant disputes this claim. The tenant stated that a large painting obscured this portion of the wall during the move in inspection and that there were multiple holes in the wall at move in.

The landlord submitted a photo however the photo was of poor quality and was not helpful. In addition, the landlord was not able to provide sufficient evidence to support their position that the tenant was responsible for this damage. Based on the above and on the balance of probabilities I dismiss this portion of their application.

The landlord is entitled to the recovery of the \$50.00 filing fee.

Conclusion

The original decision and order dated August 5, 2014 is hereby set aside, they are of no force or effect and will be replaced by this decision and order.

The landlord has established a claim for \$720.00. I order that the landlord retain the \$720.00 from the security deposit in full satisfaction of the claim. The landlord is to return the remaining balance of \$129.50 of the security deposit to the tenant forthwith. I grant the tenant an order under section 67 for the balance due of \$129.50. This order may be filed 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: October 16, 2014

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Residential Tenancy Branch

