



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR MNSD MNDC FF

### 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. The landlord and the tenants participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence, with the exception of one page of evidence that the landlord did not submit on the tenants and which I therefore did not admit. Neither party raised any further issues regarding service of the application or the evidence. The parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other admissible evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

### Background and Evidence

The tenancy began on October 1, 2011. At the outset of the tenancy, the landlord collected a security deposit from the tenants in the amount of \$737.50. The landlord and the tenants carried out a move-in inspection on September 29, 2011. The landlord submitted a document that she created, entitled "inspection report." This document was not signed by any of the parties.

The tenancy ended on June 29, 2014. The landlord moved back into the rental unit on that date. The parties met at the unit on July 2, 2014 to carry out a move-out inspection. The landlord created another form entitled "inspection report," which the landlord signed but the tenants did not.

### *Landlord's Claim*

The landlord stated that when the tenants vacated there were damaged and missing items, and the rental unit required cleaning. The landlord has claimed compensation as follows:

- 1) \$376.04 to replace the broken glass front for the fireplace – the landlord stated that the glass was broken during the tenancy, but when she raised the issue with the tenants they disputed that a professional would be needed to replace the broken glass;
- 2) \$11.20 to replace a broken light shade;
- 3) \$52.63 to replace the front to the fridge door crisper – the landlord stated that she tried but could not get a used one. The landlord's move-in inspection document notes the fridge as "clean";
- 4) \$125 for cleaning – the landlord submitted two invoices from a cleaning company, billing for a total of five hours of work at \$25 per hour, as well as photographs showing some dirty areas of the rental unit;
- 5) \$78.75 for yard work – the landlord submitted an invoice indicating that a gardening company charged for removing dog feces and doing yard work to repair damage done by dogs in the back yard;
- 6) \$70 for hole repair, painting and priming and interior wall; and
- 7) \$125 for additional yard cleanup performed by the landlord and calculated at a rate of \$25 per hour for five hours – the landlord stated that she had to remove a fence that the tenants had erected without permission, as well as clean up trash, cigarette butts and dog feces. The landlord stated that she had not requested 100 percent of the cleaning costs.

The landlord and her witness stated that there were a number of places in the rental house and yard that were not clean when the landlord arrived and moved into the unit on June 29, 2014. The landlord denied filling out the move-out inspection document before the inspection. The landlord stated that she did not believe the tenants' cleaning receipt was valid, as the tenants told the landlord their bill was for four hours of cleaning, but the receipt shows 6.5 hours. The landlord stated that there were other inconsistencies with the tenants' evidence, including cleaning invoices that were numbered only 45 numerals apart over a time period of nearly three years.

### *Tenants' Response*

The tenants stated that they had confirmed with the landlord on June 8, 2014 that the move-out inspection would be on July 29, 2014. The tenants stated that the landlord

was not prepared to do a move-out on that date and requested that the inspection be moved to a different date. The tenants stated that they raised the concern with the landlord that they would be doing the move-out inspection after the landlord had moved back in, but the landlord indicated it would be fine.

- 1) Fireplace – the tenants stated that they did not recall a crack in the fireplace glass when they moved out.
- 2) Lampshade - the tenants stated that they had no recollection of damage to the lampshade that the landlord replaced, but they found and submitted evidence of a replacement at a cost of \$4.96.
- 3) Fridge door crisper – the tenants stated that they did not recall the crisper being any other way during the tenancy.
- 4) Cleaning - the tenants stated that they had professional cleaners do cleaning before they vacated. The tenants stated that they tried to move the fridge, washer and dryer to clean behind, but they could not.
- 5) Yard work – the tenants stated that there were other dogs as well as deer and raccoons that came into the back yard. The tenants stated that they took care of the flower beds, with the exception of one flower bed that had not been in use at the outset of the tenancy so they did not take care of it.
- 6) Patch job – the tenants stated that they did patch the hole and sand, but they did not paint it.
- 7) Further yard work – the tenants stated that the yard was clean and free of garbage when they vacated. The tenants acknowledged that they erected a fence, which they did to keep other animals out of the yard.

### Analysis

The landlord's evidence was problematic. The landlord did not use the prescribed move-in and move-out condition inspection report forms, and the move-in inspection document was not dated or signed. More problematic is the fact that the landlord did not carry out the move-out inspection until four days after the tenants had vacated and the landlord had moved in, making it difficult to establish what damage may have been done by the tenants. The landlord has the burden of proof to establish her claim.

I find that the landlord failed to provide sufficient evidence to support most of her claim, as she cannot establish whether damage occurred before or after the tenants vacated, and the tenants disputed most of the landlord's claim. Further, the landlord's own inspection forms did not provide complete information regarding such items as the fridge crisper drawer.

However, the tenants acknowledged that they did not do some painting after patching, and they erected a fence without the landlord's consent. Further, I found the landlord's witness credible, and I accept that when he and the landlord arrived at the rental property on June 29, 2014 there was garbage in the back yard and some areas of the rental unit were not fully cleaned. I therefore find it appropriate to grant the landlord a nominal award of \$250.

As the landlord's application was only partly successful, I decline to award recovery of her filing fee.

### Conclusion

The landlord is entitled to \$250. I order that the landlord retain this amount from the security deposit in full satisfaction of the award, and I grant the tenants an order under section 67 for the balance of the security deposit in the amount of \$487.50. 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: December 18, 2014

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Residential Tenancy Branch

