



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND MNSD MNDC FF

### Introduction

This hearing dealt with monetary applications by the landlord and the tenant. Both the landlord and the tenants participated in the teleconference hearing.

The hearing first convened on November 28, 2014. The landlord had filed his application on November 19, 2014, and the tenants received the landlord's application only one week prior to the hearing. The tenants stated that they had submitted evidence in response to the landlord's claim. The landlord had not yet received the tenants' evidence at the time of the hearing, and I determined it was appropriate to adjourn the hearing.

The hearing reconvened on January 6, 2015. The parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other 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?  
Are the tenants entitled to monetary compensation as claimed?

### Background and Evidence

The tenancy began on August 1, 2010. At the outset of the tenancy, the tenants paid the landlord a security deposit of \$500 and a pet deposit of \$500. On July 27, 2010 the landlord and the tenants did a move-in inspection and signed the condition inspection report.

The tenancy ended on May 31, 2014. On that date, the landlord and one tenant carried out a move-out inspection. The tenant did not agree with the landlord's assessment of the condition of the rental unit at move-out.

### *Tenants' Claim*

The tenants stated that they never received copies of the move-in and move-out condition inspection report until the landlord submitted it in his evidence. The tenants stated that the rental unit was in a poor state of repair since the beginning of the tenancy. The tenants stated that the landlord was negligent regarding upkeep of the unit, and as a result the tenants and their guests were injured multiple times. The tenants stated that during the tenancy the landlord breached the Act or tenancy agreement multiple times.

The tenants stated that they gave the landlord their forwarding address in writing on the move-out condition inspection report, but they did not give the landlord written authorization to keep the security deposit. The tenants stated that the landlord forged that part of the document after the fact.

The tenants have claimed the following monetary compensation:

- 1) \$1000 for double recovery of the security deposit;
- 2) \$1200 for no heat in the tenants' son's bedroom – the tenants stated that their son's bedroom had no heat for the entire tenancy, so they had to heat it with an electric heater. They have calculated this portion of their claim at \$25 per month for 48 months;
- 3) \$300 for no heat downstairs for six months – the tenants calculated this portion of their claim at \$50 per month;
- 4) \$375 for replacement of two breakers;
- 5) \$1000 for various supplies to fix the rental unit and remove mold during the tenancy; and
- 6) \$1175 for pain and suffering – the tenants stated that due to the landlord's negligence in maintaining the rental unit and property, one tenant broke her foot; the tenant's son suffered a concussion after he slipped on ice caused by dripping water that the landlord did not address; the landlord harassed the tenants when he kept trying to illegally increase the rent and restrict the tenants' use of the garbage collection service; and the tenants incurred costs for health supplies, including the boot for the tenant's broken foot and inhalers for their kids' asthma brought on by mold.

The landlord's response to the tenants' claim was as follows.

The landlord stated that he did give the tenants copies of the move-in and move-out condition inspection reports. The landlord stated that the tenants did not give their forwarding address in writing as claimed. The landlord stated that he kept trying to contact the tenants to get their receipt for carpet cleaning, and when they verbally gave him their address he wrote it on the condition inspection report. The landlord stated that the tenants did give him written authorization on the condition inspection report to keep the security deposit.

The landlord stated that he did all requested repairs during the tenancy. The landlord stated that it was the tenants' misuse of electricity that caused the breakers to blow, and any mold was caused by the tenants.

The landlord denied harassing the tenants or causing them pain and suffering. The landlord stated that the City was trying to reduce the amount of garbage, but the tenants were not recycling enough. The landlord stated that the only injury he heard about was the tenant's foot, and it was not a break but a high-ankle sprain.

#### *Landlord's Claim*

The landlord stated that when the tenants vacated the rental unit it was left unclean and needed paint, major cleaning and repairs.

The landlord claimed the following monetary compensation:

- 1) \$185 for carpet cleaning – the landlord stated that the tenants did not give him a receipt to show that they had the carpets professionally cleaned;
- 2) \$1795 for paint and labour – the landlord stated that the tenants painted a room without authorization and they left “giant” nail holes in walls. The landlord stated that the tenants or their guests must have smoked in the unit, as there was yellow resin running down all of the walls;
- 3) \$950 to replace sod – the landlord stated that the tenants were responsible for maintaining the garden, but they did not do so and in fact they destroyed the grass with a gazebo and a “massive” sand pile;
- 4) \$291.01 to replace a baseboard heater; and
- 5) \$180 to replace a broken light and repair a hole in the wall – the landlord stated that the tenants mudded and sanded a hole in the wall that was “the size of a dinner plate.”

The tenants' response to the landlord's claim was as follows.

The tenants stated that they gave the landlord the original receipt for the carpet cleaning they had done, and they did not have a copy that they could submit as evidence.

The tenants stated that they did not repaint their son's bedroom, it was the same colour at the outset of the tenancy. The tenants denied smoking in the rental unit, and the nail holes were there at the beginning of their tenancy. The tenants provided a witness statement to show that they had the walls all prepped for painting when they vacated. The tenants stated that the landlord never painted in the four years that the tenants lived in the unit.

The tenants denied wrecking the lawn; they stated that the lawn was dead when they first moved in, and despite their efforts it would not grow because there is a large tree in the yard and the entire area is in the shade.

The tenants stated that the light was not broken. The tenants questioned the amounts claimed by the landlord, as there are no receipts to support his claim.

### Analysis

#### *Tenants' Application*

I find most of the evidence of the tenants and the landlord regarding the condition inspection report to be unsupported and inconclusive. It is clear that the landlord and the tenants participated in both inspections, and the tenants' forwarding address is written in the landlord's handwriting. I therefore find, in the absence of any other clear evidence, that the tenants did not give the landlord their forwarding address in writing, and therefore the tenants are not entitled to double recovery of their security deposit.

I find that the tenants have not provided sufficient evidence to support the remainder of their claim. If there were problems during the tenancy, the tenant had an obligation to notify the landlord of the problems. If the landlord was not complying with the Act or tenancy agreement, it was open to the tenants to make an application for an order that the landlord comply with the Act.

*Landlord's Application*

I find that the landlord has failed to provide sufficient evidence to support any portion of his claim. The tenants disputed all of the landlord's claim, and the landlord did not submit receipts or other evidence to verify the alleged damage to the rental unit or property.

*Filing Fees*

As neither application was successful, I decline to award either party recovery of the filing fee for the cost of their application.

Conclusion

The applications of the tenants and the landlord are dismissed.

The tenants are entitled to recovery of their security deposit, and I accordingly grant the tenants an order under section 67 for the amount due of \$500. 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: January 8, 2015

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Residential Tenancy Branch

