



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord, both tenants and their advocate.

The landlord testified each tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by regular mail on July 30, 2014. The landlord confirmed that he did not serve copies of a move out condition inspection report to the tenants or to the Residential Tenancy Branch for the hearing. The tenants acknowledged that they had a copy of the report but that it was given to them at the end of the tenancy and not as part of the evidence for this claim.

The landlord also submitted additional evidence to the Residential Tenancy Branch on August 5, 2014 that included receipts. He testified that he also sent this additional evidence to the tenants by regular mail. The tenants testified that they did not receive a second package from the landlord.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid utilities; for the costs of cleaning and repairing the rental unit and residential property; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord has submitted into evidence a copy of a tenancy agreement signed by the parties on April 24, 2013 for an 11 month and 1 day fixed term tenancy beginning on June 1, 2013 for a monthly rent of \$1,250.00 due on the 1<sup>st</sup> of each month with a security deposit of \$1,875.00 paid. The agreement included an addendum with a term

that states "Division of utilities will be of the following: 1/3 hydro. Tenants downstairs pay 1/3 hydro." [reproduced as written] The tenancy ended when the tenants vacated the rental unit on July 22, 2014. I note also that the parties agreed that the payment of rent for the month of June 2014 was made out of the security deposit leaving a balance of \$625.00 as a security deposit.

The landlord submits that after the tenants moved out he had to patch repair walls and paint in the living room and bedroom (\$65.51 plus \$150.00 labour); that a light fixture in the hallway was broken (\$22.49); the light fixture for the fan in the bedroom was broken (\$40.00); and that some melamine repairs were required to the cabinetry in the kitchen (\$56.46) and labour for repairs in the amount of \$75.00.

The landlord testified that the original light fixture in the hallway had only cost \$11.00 or \$12.00 but that the replacement was \$22.49.

The landlord states that the entire rental unit and shed required cleaning for 4 hours at \$20.00 per hour or \$80.00 plus an additional \$80.00 for hiring a person to clean the rental unit and that the fridge required repairs (\$40.00). The landlord also seeks compensation for lawn maintenance during the tenancy for a total of 8 hours at \$20.00 per hour for a total of \$160.00.

The landlord also seeks compensation for unpaid hydro and gas bills. The landlord submits that there is an outstanding bill for hydro in the amount of \$89.00 and the tenants' portion would be \$59.63 and \$145.00 for gas with the tenants' portion being \$97.15.

The tenants agree that they broke the light fixture in the hallway but state that any other damage in the unit was already there at the start of the tenancy. The tenants also testified that they had cleaned the rental unit prior to vacating the rental unit.

The tenants testified that they did cut the grass sometimes but acknowledge that the landlord did cut the grass during the tenancy. They submit it is the landlord's responsibility to do so in accordance with the landlord's obligation to maintain the property.

The tenants submit that they paid the outstanding hydro bill directly to the service provider. The tenants agree they do owe the landlord for gas but do not believe the amount to be \$145.00 as the period in question was for 3 weeks in the month of July 2014 and the only thing working on gas was the furnace.

Both parties acknowledge that the landlord owes the tenants \$65.00 for a portion of hydro costs.

### Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

When two parties provide testimony regarding events or conditions that appears to contradict each other and yet both positions are plausible, the party with the burden of proof must provide additional evidence in support of their position.

In the case of the landlord's claim for compensation for unpaid hydro and gas, I note that the landlord has provided no bills or statements of account for either the hydro or gas services. In regard the hydro bill the tenants submit that they paid all outstanding charges and the landlord has failed to provide any documentary evidence that the tenants left any amount owing on this bill. Therefore, I find the landlord has failed to establish that the tenants owe him anything for hydro charges and I dismiss this portion of the landlord's claim, without leave to reapply.

While the tenants accept that they owe the landlord some funds for gas usage, I again find the landlord has failed to provide any evidence of any amounts owed. I find the landlord has failed to establish the value of the amount owed to him for gas usage. As such, I dismiss this portion of the landlord's claim. However, as the tenants testified that they would be willing to pay the outstanding amount if the landlord provided them a bill, I will grant the landlord leave to reapply on this issue should the parties not be able to determine an equitable amount owed.

Section 37 of the *Act* states that when a tenant vacates a rental unit at the end of a tenancy the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear and give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.

As the landlord has provided no evidence of the condition of the rental unit at the start of the tenancy or at the end of the tenancy for the purposes of this hearing and because the tenants dispute the bulk of the landlord's claim for damages and cleaning, I find the landlord has failed to provide sufficient evidence to establish any damages or losses have resulted from the tenancy, with the exception of the hallway light. As the tenants agreed that they had broken the hallway light, I find the landlord is entitled to recover

the replacement cost of \$22.49. I dismiss the remainder of the landlord's claim, without leave to reapply.

As I have found that the landlord is entitled to amount less than the amount the landlord owes the tenants for hydro I have not set off the amount granted to the landlord against the amount owed to the tenants for hydro. As this Application was the landlords I cannot provide any order to have the landlord pay the tenants any amount other than for return of the full or part of the security deposit held.

### Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$29.49** comprised of the cost to replace a hallway light fixture. As the landlord was largely unsuccessful in his Application for Dispute Resolution I also dismiss his claim to recover, from the tenants, the filing fee for his Application.

I order the landlord may deduct this amount from the security deposit held in the amount of \$625.00 in satisfaction of this claim. I grant a monetary order to the tenants for return of the balance of the security deposit in the amount of **\$595.51**.

This order must be served on the landlord. If the landlord fails to comply with this order the tenants may file the order in the Provincial Court (Small Claims) and be 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 22, 2015

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Residential Tenancy Branch

