



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MNDC, MND, MNR, FF

### Introduction

This was the reconvened hearing dealing with the landlords' application for dispute resolution under the Residential Tenancy Act ("Act").

The landlords applied for authority to keep all or part of the tenants' security deposit, a monetary order for money owed or compensation for damage or loss, alleged damage to the rental unit, and alleged unpaid rent, and for recovery of the filing fee paid for this application.

This hearing began on April 2, 2015, and dealt only with landlords' late submission of documentary and photographic evidence. As the landlords had not filed their evidence with the Residential Tenancy Branch ("RTB") at least 14 days prior to the hearing, the tenants submitted they had not had time to prepare a written response. The hearing was then adjourned in order to allow the tenants to provide that written response.

An Interim Decision which was entered on April 7, 2015, should be read in conjunction with this Decision and further, it is incorporated by reference herein.

During the period of adjournment, the tenants submitted their documentary evidence and the landlords confirmed receipt of the evidence at the hearing.

This hearing proceeded in order to hear from the parties in support of and in response to the landlords' application.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted for the hearing, respond each to the other, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Are the landlords entitled to retain the tenants' security deposit, further monetary compensation, and to recovery of the filing fee paid for this application?

Background and Evidence

The undisputed evidence of the parties shows that this tenancy began on January 1, 2013, ended on August 31, 2014, monthly rent was \$1325.00, and the tenants paid a security deposit of \$662.50 at the beginning of the tenancy.

The landlords' original monetary claim was \$5000.00; however, the landlords later amended their claim to \$4614.82, comprised of the following:

Refrigerator door & handle replacement	\$393.75
Flooring	\$3790.13
Cleaning	\$308.27
Blinds and kit for the front door	\$34.09

The landlords' relevant documentary and photographic evidence included, but was not limited to, a written summary, a written tenancy agreement, the tenants' written notice to vacate, dated July 27, 2014, for an effective move-out date of August 31, 2014, a request to the tenants for the move-out inspection for either August 31 or September 1, 2014, communication between the parties regarding issues with the tenant's, a move-out condition inspection report, signed by the landlord only, photographs of the rental unit, a receipt for the purchase of a refrigerator, prior to the tenancy, a receipt for a refrigerator and door handle, a quote from the refrigerator store for installation of the refrigerator door, a quote for blinds, a home improvement store receipt, and a quote for flooring for a 1000 s.f. area.

***Landlords' submissions-******Refrigerator door & handle replacement-***

The landlords submitted that the refrigerator in the rental unit was purchased in 2012, as shown by their receipt, and that their photographs show that the door and handle were damaged by the tenants during the tenancy.

The landlords submitted that the cheapest option was to replace the door and handle rather than the refrigerator and to provide the installation themselves. The receipt shows the parts costs and a quote for the installation was used by the landlords for that portion of their claim.

*Flooring-*

The landlords submitted that the tenants damaged the flooring, such as scratches by the entertainment center and water damage in front of the furnace.

The landlords submitted further that the tenants confirmed the scratches in an email and the photographs show the damaged flooring.

The landlords submitted that had the home not gone into foreclosure, they would have replaced the flooring, further stating that their thinking was that the sale would reflect the state of the flooring. The landlords confirmed that there was not a move-out inspection with the tenants as they were not available and that the photographs were taken on the subsequent two weekends, not the day of the inspection. The landlord confirmed that the tenants were not offered a second opportunity to conduct an inspection.

The landlords confirmed that as to the move-in condition inspection report, the report was left at the rental unit for the tenants to review and respond, and that despite multiple emailed requests, the tenants never sent the report.

*Cleaning-*

The landlords submitted that the stove and baseboards were left dirty by the tenants, requiring the landlords to spend a couple of hours in cleaning. The landlords submitted further that there were marks on the door and debris on the floor.

As to the costs claimed, the landlords submitted that they obtained 3 quotes from outside sources, and used an average of the 3 to form their monetary claim.

*Blinds and kit for the front door-*

The landlords submitted that the tenants damaged the blinds and that they should be replaced, although they have not, as the home is in foreclosure.

The costs claimed by the landlords were from on-line listings for a similar product.

***Tenants' response-***

*Refrigerator door & handle replacement-*

The tenants submitted that they do take responsibility for the door and handle damage, but contended they should not have to pay the landlords for installing the door handle.

*Flooring-*

The tenants submitted that there were some scratches in the floor by the television stand where the tenants' daughter tried to clean. The tenants submitted further that

they had no idea how there might be water damage, as it was not caused by them. The tenants submitted further that the rental unit was 915 s.f. and not all flooring was laminate, questioning why the landlords obtained a quote for 1000 s.f.

*Cleaning-*

The tenants submitted that they were surprised that the landlords claimed for any cleaning costs as she and two others spent 12 hours cleaning prior to vacating. The tenants referred to their photographic evidence to show the clean state of the rental unit and witness statements.

The tenants submitted that she did not know when the landlords took their photographs, but pointed out that people were in and out of the rental unit quite often due to real estate showings.

*Blinds and kit for the front door-*

The tenants submitted the blinds have not been replaced and that it was only the opening and closing plate that fell off.

The tenants' relevant documentary evidence included email communication between the parties, regarding issues with the rental unit, witness statements, a real estate listing for the rental unit, and pictures of the interior and exterior of the rental unit.

Analysis

Based on the evidence before me and the balance of probabilities, I find as follows:

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that that party to pay compensation to the other party.

*Refrigerator door & handle replacement-*

I find the landlords incurred a loss of \$257.35 for replacement of the refrigerator door and handle, as confirmed by the tenants. I grant the landlords a monetary award in this amount.

As to the landlords' claim that they are entitled to \$123.75 for installation costs, as performed by the landlords, I find that the quote relied upon to obtain this figure comes from a professional company specializing in this type work.

I do not find the costs claimed for the landlords' time to be reasonable, considering that the landlords did not provide clear evidence of the amount of time involved in the installation; however, I accept that the landlords did provide the installation themselves and I find a more reasonable amount to award the landlords' the amount of \$70.00.

*Flooring-*

Section 37 of the Act requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear.

In assessing the landlords' claim for damage to the rental unit caused by the tenants, I was not presented a move-in condition inspection report, which is a record of the state of the rental unit at the beginning of the tenancy. I find the landlords failed to comply with section 23(1), which requires the parties to conduct an inspection together when they left the report for the tenants to complete later and send to the landlords. Further it is the obligation of the landlord to prepare the condition inspection report and have the tenants sign the document at the time of the inspection.

I could not rely upon the landlords' photographs as there were no photographs of a like position or item taken at the beginning of the tenancy, such as behind an appliance or the side of the oven. Further the photographs were not taken at the end of the tenancy, but rather for multiple weeks afterwards after the landlords had regained possession.

Additionally, I find the landlords have not submitted sufficient evidence to support that they have incurred a loss at the hands of the tenants or that they will ever incur a loss, as the home was listed for sale without making any repairs to the flooring.

I therefore find the landlords submitted insufficient evidence to support their claim for flooring costs, and it is dismissed, without leave to reapply.

*Cleaning-*

After reviewing the landlords' photographic evidence and considering their statements that following a 20 month tenancy they cleaned for two hours, I concluded that the tenants left the rental unit in at least a reasonably clean state. I therefore dismiss the landlords' claim for cleaning, without leave to reapply.

*Blinds and kit for the front door-*

I find the landlords have submitted insufficient evidence that they have incurred a loss for this claim, or that they will ever incur a loss, and it is therefore dismissed, without leave to reapply.

I find the landlords have been minimally successful with their application and I award them a partial filing fee in the amount of \$25.00, pursuant to section 72 of the Act.

Due to the above, I find the landlords are entitled to a monetary award of \$352.35, comprised of a replacement for the refrigerator door and handle in the amount of \$257.35, installation costs of \$70.00, and partial recovery of their filing fee of \$25.00.

I direct the landlords to retain the amount of \$352.35 from the tenants' security deposit of \$662.50 in full satisfaction of their monetary award. Pursuant to section 62(3), I order the landlords to return the balance of the tenants' security deposit. To give effect to this order, I grant the tenants a monetary order in the amount of \$310.15, the balance of their security deposit. The final, legally binding monetary order is enclosed with the tenants' Decision, and should the landlords fail to pay the tenants this amount without delay, the order may be served upon the landlords and filed in the Provincial Court of British Columbia (Small Claims) for enforcement purposes. The landlords are advised that costs of such enforcement are recoverable from the landlords.

### Conclusion

The landlords' application has been partially successful as they are granted a monetary award in the amount of \$352.35, a portion of their monetary claim. The landlords are directed to retain this amount from the tenants' security deposit and to return the balance to the tenants.

The tenants are granted a monetary award for the balance of their security deposit.

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: May 29, 2015

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Residential Tenancy Branch

