



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PETER D. GRANGER LAW CORP.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      mnsd, mndc, ff

### Introduction:

The landlord requests compensation for some repairs and clean up to the premises following the ending of this tenancy, and an order to retain the security deposit.

### Issues to be decided:

Are the tenants liable for the landlord's repair and clean up costs?

Is the landlord entitled to retain the security deposit in partial satisfaction of such award?

### Background and Evidence:

This tenancy began in November or December, 2010 and ended January 31, 2015. The monthly rent at all times was \$2,000.00, and a security deposit of \$1,000.00 was paid. A written tenancy agreement was made at the start of the tenancy, indicating the tenancy was for a fixed term of year, then reverting to a month-to-month tenancy. A further written agreement made April 29, 2012 converted the tenancy to another fixed term of one year, then again reverting to a month-to-month tenancy. No condition inspection report was prepared at the start of the tenancy, or at the end of the tenancy. An inspection was done and a report prepared at the tenants' request on April 29, 2012. The tenancy ended January 31, 2015.

### Flooring:

The landlord alleges firstly that the tenants left the oak hardwood floor in a damaged condition in three locations. He submits the floor was in a near new condition when the tenancy began, and remained in good condition at the time of the inspection in April, 2012. At the end of the tenancy, however, there were conspicuous and unsightly gouges in the floor and it was heavily scratched, and damage penetrated through the finish. He was obliged to hire a repairer, who sanded, stained, and refinished the flooring. The cost of this work was \$1,722.00.

The tenants acknowledge that a nail at the bottom of a chair did scratch one area of the floor, but deny they damaged any other part of the oak flooring. They submit that any

damage, including the scratching by the chair, was normal wear and tear for which they should not be held liable.

#### House cleanup:

The landlord submits that the cleaners hired by the tenant to clean the premises at the end of the tenancy did a poor job, and he was obliged to call them back to complete the clean-up, such as drawers, cupboards, sills, windows, faucets, and grout. This further cleaning cost \$94.50. The landlord suggests the reason the cleaner's first job was deficient was because the tenants held the cleaner to a specific budget.

The tenants submit that the cleaners used were suggested by the landlord. They had done some of their own cleaning prior to the cleaners doing work, and they had done cleaning when the tenancy first began. They speculate the cleaning may have included the clean up of mess left by the floor finishers.

#### Yard work:

The landlord submits that the tenants were required to maintain lawns and the yard, but failed to do so. When the tenancy ended, significant yard cleanup was required, areas were overgrown and debris had not been picked up. The back patio was usable when the tenancy began, but at the end was unusable due to heavy moss growth that had to be power washed. The landlord hired a landscaping company to do this work, as well as trim a limb from a tree too close to the house (which the landlord acknowledges was not the tenants' responsibility). The portion of the landscaper's cost attributable to the tenants is \$1,000.00.

The tenants testified they moved out in winter, and therefore the yard was not in the kind of shape it would be in summer. They acknowledge the yard and driveway was not perfect when they left. They suggest that some of the costs of the landscaper related to a pile of waste that pre-existed the tenancy, or to repair a broken gate. They submit that there was moss on the patio when the tenancy began, and soon got worse. They were never told it was their responsibility to address the moss issue.

#### Analysis:

Tenants are generally required to pay for repairs where damages are caused, either deliberately or as a result of negligence, by the tenants or their guests, or their pets. In order for such compensation to be ordered, however, a landlord must prove on a balance of probabilities that the damages were in fact caused by the tenants, or were the responsibility of the tenants to repair.

#### Floors:

Given that the condition inspection in April, 2012 confirmed that the hardwoods floors were in a good condition at that time, I accept that the damage that required repair occurred to the floors thereafter. I also accept the landlord's testimony that the damage caused by the tenants exceeded mere scratches, and involved gouges that penetrated the finish of the hardwood. As noted by the tenants however, some scratching and wear of hardwood floors is ordinary and inevitable. Even if the gouges had not occurred, the floors would have required refinishing on the basis of ordinary wear and tear at the landlord's expense at some point, and I estimate this would have occurred after an 8 year period. The damage by the tenants shortened this period by half. The tenants are therefore liable for half the landlord's floor finishing costs, which is \$861.00.

Cleaning:

I accept that the cleaners hired by the tenants did not do a sufficient cleaning job, and that the landlord incurred a further cost of \$94.50 to clean the deficient areas. The tenants must be held responsible for this sum, as I find no evidence that the cleaning related to the floor finishing. I add that had some of the cleaning related to the flooring work, the tenants would have been liable for half that cost in any event.

Yard cleanup:

A term of the tenancy agreement agreed to by the tenants required them to fully maintain the lawn and yards and driveways of the premises. The tenants failed to do, and are held liable for the cost to the landlord to clean up these areas. I accept that the debris cleanup done by the landlord's landscapers did not involve yard work that pre-existed the tenancy.

Regarding the patio, I accept that there was some moss growth on the patio at the start of the tenancy, which worsened over the course of the tenancy. I accept the landlord's contention that it was the tenants' responsibility to maintain the patio through periodic pressure washing, but I also accept that the landlord failed to provide the patio in a pressure washed condition at the start of the tenancy.

The invoice of the landscaper totalled, \$1,323.00. I accept the landlord's estimate that after severing the cost of the tree limb removal, the balance for the other work is \$1,000.00. I further reduce this sum by \$200.00, representing an estimated cost of pressure washing the patio at the start of the tenancy. This leaves a balance of \$800.00 for which the tenants are liable.

The sum awarded to the landlord for these three items amounts to \$1,755.50. As the landlord is successful with this claim, he may also recover his \$50.00 filing fee from the tenants. The total awarded becomes \$1,805.50.

The Residential Tenancy Act (section 23(4)) and Regulation requires a landlord to prepare a condition inspection report at the start and end of every tenancy. The failure by the landlord to do so extinguishes the landlord's right to retain the tenants' security deposit (pursuant to section 38(5)) at the end of the tenancy. I therefore dismiss the landlord's claim to retain the deposit. I note however, that the parties may agree between themselves to permit the landlord to apply the retained \$1,000.00 deposit to the monetary award made herein, rather than deal with other enforcement mechanisms or further claims. Should they opt to do so, the balance that would remain owing by the tenants to the landlord would be \$805.50.

Conclusion:

The tenants must pay the sum of \$1,805.50 to the landlords.

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: July 10, 2015

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Residential Tenancy Branch

