



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNSD, FF

### Introduction

This hearing was convened to address a claim by the landlords for a monetary order and an order authorizing them to retain the security and pet deposits. Both parties participated in the conference call hearing.

### Issue to be Decided

Are the landlords entitled to a monetary order as claimed?

### Background and Evidence

Most of the facts are not in dispute. The tenancy began on November 1, 2013 and ended on March 31, 2015. Rent was set at \$1,600.00 per month plus \$75.00 for utilities and at the outset of the tenancy, the tenants paid an \$800.00 security deposit and an \$800.00 pet deposit.

The parties agreed that at the end of February, the tenants gave the landlord verbal notice that they would be vacating the rental unit on March 31. The tenants claim that the landlords gave them verbal permission to apply the security and pet deposits to March's rent while the landlords deny having given such permission. The tenants acknowledged that they did not pay for utilities for the month of March.

The landlords seek to recover unpaid rent for March and loss of income for April as well as utility charges for both of those months. The landlords testified that they did not attempt to re-rent the unit as they sold it several months after the end of the tenancy.

The landlords also seek to recover \$672.00 as the cost of cleaning the rental unit. The landlords testified that the tenants failed to clean the unit at the end of the tenancy. They provided an estimate from a cleaning company and testified that they had the

cleaning performed at that cost. The landlords also provided faxed copies of photographs which purported to show the condition of the unit.

The landlords provided a copy of the condition inspection report on which they had noted that the rental unit was dirty. The tenants signed the condition inspection report and indicated that they did not agree with the report. The tenants testified that they cleaned the unit to the best of their ability.

The landlords also seek to recover the \$50.00 filing fee paid to bring their application.

### Analysis

Section 21 of the Act provides that tenants may not apply a security or pet deposit to rent without the written consent of the landlords. The tenants did not have written consent and therefore were not legally permitted to apply the deposits as rent. I award the landlords \$1,600.00 in rent for March. As the tenants acknowledged that they owe \$75.00 for utilities for March, I award the landlords \$75.00.

I dismiss the landlords' claim for loss of income and unpaid utilities for April. Although the tenants were legally obligated to provide written notice to end their tenancy, in order to succeed in this claim, the landlords must prove that they acted reasonably to minimize their losses. In this case, the landlords did not advertise the unit or attempt to re-rent and I find that they failed to act reasonably to minimize their losses.

I also dismiss the landlords' claim for the cost of cleaning. Many of the landlords' photographs are completely black or have unclear images as the fax machine did not transmit the images effectively. Several of the discernable images show missing switchplate covers or damaged items such as smoke detectors and do not reveal cleaning issues related to the landlords' claim. In order for the landlords to succeed in their claim for cleaning, they must prove that the tenants failed to leave the rental unit in reasonably clean condition. As the tenants claim they cleaned the unit and the landlords have not provided sufficient evidence to prove that the unit was not reasonably clean, I find that the claim must fail.

AS the landlords have been successful in their claim for rent and utilities for March, I find they should recover their filing fee and I award them \$50.00.

The landlords have been awarded a total of \$1,725.00. I order the landlords to retain the \$800.00 security deposit and \$800.00 pet deposit in partial satisfaction of the claim and I grant them a monetary order under section 67 for the balance of \$125.00. This

order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlords are granted a monetary order for \$125.00 and will retain the security and pet deposits.

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: September 09, 2015

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Residential Tenancy Branch

