



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

MND, MNSD, MNDC, FF

### Introduction

In the first application the landlord seeks a monetary award for damage to a wood floor, cleaning costs and for damage to a deck.

In the second application the tenant seeks a return of his security deposit, doubled pursuant to s.38 of the *Residential Tenancy Act* the "Act") and for damages related to intrusions by a realtor showing the premises for sale, loss of hot water and an alleged breach of his privacy by the landlord.

### Issue(s) to be Decided

Does the relevant evidence presented during the hearing show on a balance of probabilities that either party is entitled to any of the relief claimed?

### Background and Evidence

The rental unit is the two bedroom main floor of a house. During the relevant time period, the landlord lived in a basement suite below.

The tenancy started in January 2014 and ended March 31, 2015. The rent had been \$1000.00 per month. The landlord holds a \$400.00 security deposit.

The landlord claims that during the tenancy the tenant's desk chair caused a significant gouge in the wood floor in one of the rooms. She claims to have spent over \$600.00 to repair it.

The landlord testifies that she and another had to clean the premises after the tenant left. She estimates the work was of a value of about \$200.00.

The landlord says the tenant failed to sweep the deck and that debris damaged it. She has not conducted any repair. She sold the home in August 2015.

The tenant says the floor was damaged before his tenancy started. He says it is an old wood floor. He claims he cleaned the rental unit and produced photos of the premises at move out.

The tenant says he was not responsible for maintaining the deck.

In support of his own claim, the tenant testifies that the landlord or her realtor entered the premises without his consent.

He says that he was without hot water for two days.

He says that the landlord copied an email he'd sent to persons he did not know or authorize, thus resulting in the release of some personal information.

In response, the landlord says the water heater burst and that she had it repaired within two days. She admits she failed to conduct a condition inspection or prepare a report at the start and end of the tenancy.

### Analysis

Without a condition inspection report, the landlord has put herself in a very difficult position. On the competing evidence she has not satisfied the burden on her to prove on a balance of probabilities that the floor was damaged during this tenancy. This item of the claim is dismissed.

Similarly, the landlord has not presented evidence during this hearing to establish that any cleaning was required in order to bring the premises up to the "reasonably clean" standard imposed by the *Act*. I dismiss this item of the landlord's claim.

The landlord has not established that the tenant was responsible for any deck maintenance. Nor has she established that the deck was damaged during this tenancy or that she has suffered any loss as a result. This item of the landlord's claim is dismissed.

The tenant has established that the landlord's realtor had bothered him about viewings of the premises. The tenant has not testified or referred to any evidence about how often this occurred or in what manner or to what extent he was disturbed. There is no basis upon which to conclude the disturbance was anything more than an insignificant one. I dismiss this item of the claim.

It is apparent that the water heater failed during this tenancy. The evidence shows that the landlord attended to its repair quickly. A tenant must expect to have to put up with the failure of

an appliance from time to time and cannot fairly claim damages unless the landlord neglects or delays the repair. I dismiss this item of the tenant's claim.

The tenant claims a breach of his privacy. The evidence he presented at hearing regarding this claim was far too sparse for an arbitrator to reach any reasonable conclusion about it. In any event, it appears to have been accidental.

It is not the purpose of this forum to punish a landlord in such circumstances, but to compensate the tenant for any damage he might have suffered. It is not apparent that the tenant has suffered any damage. I dismiss this item of the claim.

Section 38 of the *Act* provides that a landlord must either repay a security deposit or make a claim against it within 15 days after the end of the tenancy and receipt of a tenant's forwarding address in writing.

It was not stated when the landlord received the tenant's forwarding address in writing. In any event, the landlord appears to have brought her application on April 10, well within the 15 day period after the end of the tenancy. The tenant is not entitled to a doubling of the deposit.

### Conclusion

The landlord's application is dismissed.

The tenant's application is dismissed but for recovery of the deposit money.

The tenant is entitled to recover the \$400.00 security deposit the landlord holds. I make no order regarding the filing fee of either party.

The tenant will have a monetary order against the landlord in the amount of \$400.00.

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 16, 2015

