



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ROWAN PROPERTY MANAGEMENT LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes                      MNSD, MNDC, MND, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords filed under the Residential Tenancy Act (the "Act"), for a monetary order for damages to the unit, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

### Preliminary matters

At the outset of the hearing the tenants requested that this matter be adjourned and heard with their application for dispute resolution, which was filed on October 8, 2015 and scheduled to be heard on April 21, 2016.

The landlords objected to this matter being adjourned and the landlord SB indicated they have not been served.

I decline the tenants' application to have this matter adjourned and heard with their application on April 21, 2016. The landlord application was filed on May 11, 2015. I find any further delay would be unfair and prejudicial to the landlord.

The tenants confirmed receipt of the landlords' evidence. The tenants indicated that they did not file any evidence on the landlord's applications.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issues to be Decided

Are the landlords entitled to monetary compensation for damages?  
Are the landlords entitled to retain the security deposit?

### Background and Evidence

The parties agreed that the tenancy began on May 1, 2014. Rent in the amount of \$1,500.00 was payable on the first of each month. The tenants paid a security deposit of \$750.00. The tenancy ended on April 30, 2015.

The parties agreed a move-in and move-out condition inspection report was completed. The tenants provided the landlord with their forwarding address on the move-out condition inspection report, which was completed on dated April 30, 2015.

The landlords claim as follows:

a.	Yard maintenance	\$ 330.75
b.	Cleaning	\$ 944.69
c.	Repairs	\$ 98.30
d.	Supplies and repair parts	\$ 369.66
e.	Filing fee	\$ 50.00
	<b>Total claimed</b>	<b>\$1,793.40</b>

#### Yard maintenance

The landlords testified that the tenants rented the property and were responsible to maintain the yard. The landlords stated that the move-in condition inspection shows that the yard was in good condition at the start of the tenancy.

The landlords testified at the end of the tenancy the lawn was over grown and they had to have the yard trimmed and mowed. The landlords seek to recover the cost they paid to a local landscaper to have the work completed in the amount of \$330.75.

Filed in evidence is photograph marked "1" which shows the lawn at the end of the tenancy overgrown and not maintained. Filed in evidence is photograph marked "2" which shows the lawn after it was mowed by the landlords' landscaper. Filed in evidence is a receipt, which supports the amount paid.

The tenant MB testified that the when they first moved into the rental unit the lawn needed to be mowed as it was knee high. The tenant acknowledged that the might have needed to be mowed at the end of the tenancy.

AW on behalf of the tenants stated that the amount claimed is unreasonable and is hardly normal. AW submits that the normal amount for cutting a lawn is approximately \$20.00 to \$30.00. AW stated that the tenants were not given the opportunity to return and mow the lawn.

The landlord's argued that the lawn in one third of an acre and the amount claimed is based on having to have the lawn trimmed as it was overgrown and mowed. The landlords stated that they are not under any obligation to have the tenants return after the tenancy is over.

#### Cleaning

The landlords testified that the tenants did not leave the rental clean at the end of the tenancy as there was food left in the refrigerator, and items were left under the sink. The landlords stated that one of the two ovens were not cleaned, the pans underneath the cooking elements were dirty and behind and underneath the appliance was not cleaned. The landlord stated that the kitchen sink was not properly cleaned and the central vacuum was not emptied.

The tenants testified that there were a few minor things that they forgot to clean, such as turning the self-clean function on one of the ovens. The tenant stated that they did not clean the master ensuite window as they were unable to remove the window screen and did not want to break it. The tenants stated that they must have missed the kitchen window.

The tenant testified that the amount claimed by the landlord is unreasonable as it would have only been 1 or 2 hours at the most to rectify the few items that they missed.

### Repairs

The landlords testified that the tenants broke the bathroom cabinet drawer, which they had to hire a person to make the repair. The landlords seek to recover the amount of \$91.15. Filed in evidence is a photograph of the bathroom drawer. Filed in evidence is a receipt for repair.

The tenants testified that they did not break the drawer. The tenants testified that the draw has three panels and the smaller panels on the outer edge would slip off, which they tried to fix. The tenants stated that the panel continued to fall off and they left the panel in the draw at the end of the tenancy.

### Supplies and repair supplies

The landlords testified that they seek to recover the cost of the cleaning supplies that they had to use in the amount of \$270.77.

The landlords testified that there was also a plug missing and they paid \$2.07 to replace the plug. The landlords stated that there were burnt out light bulbs in the ensuite bathroom, closet, basement and the kitchen had to be replaced. The landlords seek to recover the amount of \$98.89. Filed in evidence is a receipt for light bulbs.

The tenants testified that they are not responsible for the landlords clean supplies and the amount claimed is unreasonable.

The tenants acknowledge that there were about six lights burnt out at the end of the tenancy. The tenants stated that the amount claimed by the landlord is unreasonable as the light purchased are LED, which were not provided at the start of the tenancy.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlords have the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Section 21 of the Act States a condition inspection report completed in accordance with this section is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.

How to leave the rental unit at the end of the tenancy is defined in Part 2 of the Act.

### **Leaving the rental unit at the end of a tenancy**

*37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.*

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

### Yard maintenance

Under the Residential Tenancy Policy Guideline 1, which clarifies the rights and responsibilities of the parties for the premises under the Act, the tenants are responsible for routine yard maintenance, which includes cutting the grass.

In this case, I prefer the landlords' evidence over the tenants' evidence that the yard was provided to the tenants in good condition at the start of the tenancy as this is support by the move-in condition inspection report. Although the tenants stated otherwise, I find the tenants has not provided a preponderance of evidence to the contrary as required by section 21 of the Act.

I further find that the tenants did not cut the grass at the end of the tenancy as this is supported by photographic evidence which shows the grass over grown. I find the tenants' breached the Act, when they failed to maintain the lawn.

Further, I do not find the amount claimed unreasonable as the lawn is one third of an acre and overgrown. If the tenants felt that they could have done the work themselves or had it completed for a lower amount of money, they should have had the work completed prior to the tenancy ending. The landlords were under no obligation to have the tenants return to do the work after the tenancy ended. Therefore, I find the landlords are entitled to recover their cost to have the lawn trimmed and mowed in the amount of **\$330.74**.

### Cleaning

The parties participated in a move-out condition inspection. The tenants did not agree with the report at the time the inspection was completed.

In this case, the landlords are claiming 36.75 hours of cleaning. I find the evidence provided by the landlord and the photographic evidence do not support the amount of time claimed and I find the amount unreasonable based on the evidence presented by the landlords.

While I accept the photographs show that there were a few minor things to clean or a few things forgot; however, I am not satisfied that the rental unit was left unreasonable clean as the landlords did not provide any overall photographs of the premises for my consideration. I find the landlords have failed to prove the tenants breached section 37 of the Act. Therefore, I dismiss the landlords cost for cleaning.

### Repairs

Although I accept that the panels of the draw had fallen off. I find I cannot determine that the damage was caused by the tenants' actions, as the photographs appear to show that the panels have simply fallen off, which could be from faulty installation or faulty design of the draw. There is no evidence in the photographs that shows neglect of the draw. I find the landlords have failed to prove the damage was caused by the actions of the tenants. Therefore, I dismiss this portion of the landlords' claim.

### Supplies and repair supplies

As I have found the landlords failed to prove the rental unit was not left reasonable clean by the tenants, I find the landlords are not entitled to recover cleaning cost. I also note that the items claimed in their receipts are unreasonable, such as claiming for 5KGs of concentrated cleaner.

However, I find that the tenants are responsible for the burnout lights at the end of the tenancy. While I accept only LED lights are available to be purchased, I find that it is unfair and unreasonable for the tenants to pay for a product far superior than what they were provided. Therefore, I find the landlords are entitled to a nominal amount for the burn out lights in the amount of **\$20.00**.

While the landlords are claiming for a missing plug, I did not hear evidence on this issue from the tenants. I have reviewed the move-out condition inspection report and the plug does not appear to be noted as missing. As result, I am not satisfied that the landlords have provided a preponderance of evidence to the contrary. Therefore, I dismiss this portion of the landlords' claim.

I find that the landlords have established a total monetary claim of **\$400.74** comprised of the above described amounts and the \$50.00 fee paid for this application.

In this case, the landlords filed their application for dispute resolution claiming against the security deposit on May 11, 2015, which is within 15 days of the tenancy ending. I find the landlords have complied with the provisions of section 38 of the Act and the doubling provisions under the Act do not apply.

Therefore, I order that the landlords retain the amount of **\$400.74** from the tenants' security deposit (\$750.00) in full satisfaction of the claim and I grant the tenants the balance due of their security deposit in the amount of **\$349.26**.

Should the landlords fail to comply with my order, this order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlords are granted a monetary order and may keep a portion of the security deposit in full satisfaction of the claim. The tenants are granted a monetary order for the balance due 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: October 21, 2015

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Residential Tenancy Branch

