



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Code MNR, MND, MNSD, FF

### Introduction

This hearing was convened in response to applications by the tenants and the landlords.

The tenants' application is seeking orders as follows:

1. Return all or part of the security deposit; and
2. To recover the cost of filing the application.

The landlords' application is seeking orders as follows:

1. For a monetary order for unpaid utilities;
2. For a monetary order for damages to the unit;
3. To keep all or part of the security deposit; and
4. To recover the cost of filing the application.

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.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

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 a monetary order for unpaid rent?

Are the landlords entitled to monetary compensation for damages?

Is either party entitled to retain the security deposit?

### Background and Evidence

The parties agreed that the tenancy began on April 1, 2012. Rent in the amount of \$1,900.00 was payable on the first of each month. The tenants paid a security deposit of \$950.00. The tenancy ended on June 30, 2015.

The parties agreed a move-in and move-out condition inspection report was completed.

#### Landlord's application

The landlords claim as follows:

a.	Cleaning of carpet	\$ 50.00
b.	Portion of utilities (hydro and gas)	\$ 55.31
c.	Replace and repair venetian blind	\$ 223.50
d.	Paint and labour to repair damage wall	\$ 240.98
e.	Cleaning tile	\$ 50.00
f.	Damages to appliances	\$ 350.00
g.	Postage and photo-finishing fees	\$ 60.81
h.	Filing fee	\$ 50.00
	<b>Total claimed</b>	<b>\$1,080.60</b>

#### Cleaning of carpet

At the outset of the hearing the tenant agreed to pay the cost of the carpet cleaning.

#### Portion of utilities

At the outset of the hearing the tenant agreed to pay the cost of utilities.

#### Replace and repair venetian blind

The landlords testified that the tenants caused damage to the small venetian blind in the top floor bedroom which cost \$56.00 to replace. The landlords stated that the large venetian blind in the main floor bedroom was also broken as the slats were all bent by the tenants not using the blind properly. The landlord stated that the blinds were approximately 8 years old, however as they are made out of aluminum they should have a life span of 50 years.

The landlords testified that six other venetian blinds had to be repaired, as the slats were also bent from the tenants not using the blinds correctly; however they were able to remove and replace the bent slats. The landlords stated that it took them about 1 hour for each blind and seek compensation at the rate of \$20.00 per hour. The landlords seek compensation in the total amount of \$100.00.

The landlords testified that they have provided two photographs in support of the damaged blinds.

The tenant testified that they agree they caused damage to the small venetian blind in the top floor bedroom and agreed to pay the amount claimed in the amount of \$56.00.

The tenant testified that the other blinds were removed and in good condition prior to them vacating. The tenant stated the aluminum blinds are not a high quality blinds and were used in a reasonable manner.

#### Paint and labour to repair damage wall

The landlords testified that the tenants caused damage to the walls. The landlords stated the tenants attempted to make the repairs by using fillers; however, the job was not adequately done as they did not properly fill the holes and they did not sand the filler.

The landlord testified that the tenancy agreement also provides that the tenants are not to paint; however, the tenants went around the unit with paint to touch up the walls; however it was the wrong paint which required the walls to be repainted. The landlords stated that the cost of the paint was \$81.96, however, they seek only seek to recover half that amount (\$40.98) as they have allowed for normal wear and tear. The landlords stated that they seek compensation from eight hours of labour at the rate of \$25.00 per hours, as they had to fix the repairs the tenants attempted to make and repaint over the wrong paint. The landlords seek to recover the total amount of \$240.98.

#### Cleaning tile

The landlords testified that the tenants did not properly clean the tile floors in the bathroom and the kitchen. The landlords stated that it took them two hours to clean the tiles and seek compensation at the rate of \$25.00 per hours for a total amount of \$50.00. Filed in evidence are photographs of the tile floors.

The tenant testified that they left the rental unit reasonably cleaned and they spent more than two hours cleaning the tile, which the cleaner burnt their hands. Filed in evidence are digital photographs of the rental unit.

#### Damages to appliances

The landlords testified that the tenants were provided a new stainless steel refrigerator and stove at the start of the tenancy. The landlords stated at the end of the tenancy the refrigerator had multiple dents. The landlord stated that it may be possible to remove the dents; however, just to have the appliance repair company attend to inspect the appliance will cost \$150.00 plus the cost of the repair. The landlords seek to recover the cost of the inspection in the amount of \$150.00.

The landlords testified that the tenants were given instruction on how to care for the stove. The landlords stated that it was unfortunate that when the tenants went away on holidays that their guest used steel wool on the appliance leaving circular scratches on the stove, making the appliance look old, weathered and devaluing the appliance value. The landlords seek to recover the devalued amount in the amount of \$200.00

The tenant testified that the appliance was new; however they did not notice any dents until they were shown to them.

#### 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.

#### Cleaning of carpet

The tenant agreed that they are responsible for the cost of carpet cleaning. Therefore, I find the landlords are entitled to recover the amount of **\$50.00**.

#### Portion of utilities

The tenant agreed that they are responsible for the utilities. Therefore, I find the landlords are entitled to recover the amount of **\$55.31**.

#### Damages

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.

#### Replace and repair venetian blind

At the outset of the hearing the tenant agreed that they are responsible for the small venetian blind in the top floor bedroom. Therefore, I find the landlords are entitled to recover the amount of **\$56.00**

In this case, the landlords further seek compensation for the main bedroom blind, and for the repair of six additional blinds. The tenant denied they are responsible. I find the landlords have provided insufficient evidence as they did not provide photographs of all the blinds that were said to be repaired for my consideration, as this could be normal wear and tear. Further, although the landlord submitted a photograph of the main bedroom blind, I find it is not sufficient as it does not show the entire blind for my consideration. Therefore, I dismiss this portion of the landlords' claim due to insufficient evidence.

Paint and labour to repair damage wall

The tenants attempted to repair the damage to the walls; however, the filler was not properly completed and the tenants used the wrong paint on the walls, which the photographs show the walls were left spotty. I find the tenants breached the Act, when they failed to make the repairs properly.

In this case, the landlords are not seeking the full cost of the paint as they have depreciated it for some wear and tear; I find that to be reasonable. Therefore, I grant the landlords' the depreciate value of the paint in the amount of \$40.98 and the full cost of labour in the amount of \$200.00 as the labour would not have been required if properly completed by the tenant. Therefore, I find the landlords' are entitled to recover the total amount of **\$240.98**.

Cleaning tile

I accept the grout in the kitchen and bathroom needed some extra cleaning based on the landlords' photographs; however, I have reviewed the tenants' photographic evidence which show that in the totality the tenants left the rental unit reasonably cleaned as required by the Act. I find the landlords have failed to prove a violation of the Act. Therefore, I dismiss this portion of the landlords' claim.

Damages to appliances

I accept the photographic evidence of the landlords' that the refrigerator was left with multiple dents. This is not normal wear and tear. I find the tenants breached the Act, when they failed to make the repairs at the end of the tenancy.

In this case, the landlords are not seeking for the entire repair as they are unsure of the cost or if the dents can be fully removed; however, the landlords have requested compensation in the amount of \$150.00, as that is the cost to have appliance repair company attend to determine if the repairs can be made. I find that to be reasonable. Therefore, I find the landlords are entitled to recover the amount of **\$150.00**.

I further accept that the tenants caused damage to the stove, by their guest using a steel wool on the appliance finish. While the landlords seek to recover the appliance devalued amount, I find the landlord have failed to provide sufficient evidence, such as estimate for a qualified person for me to consider if the amount they claimed is reasonable. Therefore, I grant the landlords a nominal in the amount to recognize the breach in the amount of **\$50.00**.

Postage and photo-finishing fees

There is not authority under the Act, to recover the above costs. Therefore, I dismiss this portion of the landlords' claim.

I find that the landlords have established a total monetary claim of **\$652.29** comprised of the above described amounts and the \$50.00 fee paid for this application.

I order that the landlords retain the amount of \$652.29 from the security deposit of **\$950.00**, in full satisfaction of the claim and I grant the tenants an order under section 67 of the Act for the balance due of their security deposit in amount of **\$297.71**.

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

As the tenants' application for the return of the security was filed after the landlord's application to retain the security deposit, I decline to award the tenants the cost of the filing fee.

### Conclusion

The landlords are granted a monetary order and may keep a portion of the security deposit in partial satisfaction of the claim and the tenants are granted a formal 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: January 18, 2016

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Residential Tenancy Branch

