



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND MNSD FF

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution seeking remedy under the *Residential Tenancy Act* (the "*Act*"). The landlord applied for a monetary order for damage to the unit, site or property, for authorization to keep all or part of the security deposit and pet damage deposit, and to recover the cost of the filing fee.

The male landlord D.A. (the "landlord") and the tenants appeared at the teleconference hearing and gave affirmed testimony. The parties were advised of the hearing process and were given the opportunity to ask questions about the hearing process during the hearing. A summary of the testimony and evidence is provided below and includes only that which is relevant to the hearing.

The tenants confirmed receiving the landlords' documentary evidence and that they had an opportunity to review the evidence prior to the hearing. The landlord stated that the tenants failed to serve their evidence properly and that he was only provided 2 pages and not 20 as claimed by the tenants via email. As a result of the above, I have excluded the tenants' evidence in full as the tenants failed to comply with the requirements for service of documentary evidence as set out in the Rules of Procedure.

### Issues to be Decided

- Are the landlords entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenants' security deposit and pet damage deposit under the *Act*?

### Background and Evidence

The parties agreed that a month to month tenancy began on June 1, 2015 and ended on November 15, 2015 when the tenants vacated the rental unit. A copy of the tenancy agreement was not submitted in evidence. Monthly rent in the amount of \$850.00 was due on the first day of each month. The tenants paid a security deposit of \$425.00 and a pet damage deposit of \$425.00 at the start of the tenancy. The parties agreed that the tenants have received \$400.00 of the pet damage deposit by cheque from the landlords since they vacated. The landlords continue to hold \$450.00 comprised of a \$25.00 balance of the pet damage deposit, and the full \$425.00 security deposit.

The tenants vacated the rental unit on November 15, 2015. The landlords have claimed for \$452.98 comprised of the following:

Item #	Description	Amount
1	Wall repair and painting	\$246.75
2	Cleaning – labour	\$100.00
3	Cleaning – supplies	\$24.04
4	Garbage disposal	\$8.19
5	Filing fee	\$50.00
6	Registered mail costs	\$24.00
<b>TOTAL</b>		<b>\$452.98</b>

Item #1 of the landlords' monetary claim is for \$246.75 for wall repair and painting costs. A copy of the condition inspection report was submitted in evidence in supports that the Entry area was scratched at the start of the tenancy and damaged at the end of the tenancy. The landlord testified that filling and sanding were required and that the tenant signed the condition inspection report which indicates wall damage in the entry and closet in master bedroom. The master bedroom is described on the condition inspection report that at the end of the tenancy the closet walls were heavily marked yet at the start of the tenancy the closet walls were in good condition. A copy of an invoice with GST number in the amount of \$246.75 was submitted in evidence in support of this portion of the landlords' claim. The tenants testified that they did not agree with any portion of the landlords' claim. The landlord affirmed that the repair job attempted by the tenants failed and had to be redone.

Items #2 and #3 of the landlords' monetary claim is for \$100.00 for cleaning of the rental unit and \$24.04 for cleaning supplies. The landlord testified that it took four hours to clean the rental unit at \$25.00 per hour and that the rental unit was re-rented on December 15, 2015 which is one month after the tenants vacated the rental unit on November 15, 2015. While the tenants do not agree on the amount being claimed they did agree on the condition inspection report of the fridge, stove, washer and dryer, trim, baseboards and kitchen cabinets being dirty. Two receipts were submitted in evidence. The first receipt is in the amount of \$100.00 from M.B. dated December 3, 2015 for cleaning and included the address of the rental unit. The second receipt is from a store and includes common items used for cleaning in the amount of \$24.04.

Item #4 is for \$8.19 for garbage disposal costs. The landlord testified that the tenants left a large tote under the stairs full of empty pop containers and large books. The tenants claimed that that was recycling to which the landlord responded that they don't remove large books in the recycling box at roadside pickup. The landlord submitted a receipt in the amount of \$8.19 in support of this portion of the landlords' claim. The condition inspection report also indicates that garbage under the stairs had to be removed.

Item #5 is for the recovery of the cost of the \$50.00 filing fee which will be addressed later in this Decision.

Item #6 is \$24.00 for registered mail costs. The landlord was advised that this portion of the landlords' claim is dismissed as there is no remedy under the *Act* for mailing costs associated with making an Application for Dispute Resolution.

### Analysis

Based on the documentary evidence and the testimony presented, and on the balance of probabilities, I find the following.

**Item #1** – This portion of the landlords' monetary claim is for \$246.75 for wall repair and painting costs. After carefully considering the condition inspection report submitted in evidence I find that it supports the landlords' claim. Furthermore, the master bedroom indicates on the condition inspection report that at the end of the tenancy the closet walls were heavily marked yet at the start of the tenancy the closet walls were in good condition. I also have considered the copy of an invoice with GST number in the amount of \$246.75 that I find supports this portion of the landlords' claim. Therefore, I find the tenants breached section 37 of the *Act* by damaging the rental unit walls beyond

reasonable wear and tear. I find the landlords have provided sufficient evidence to support the full amount claimed of **\$246.75**.

**Items #2 and #3** – The landlords have claimed \$100.00 for cleaning of the rental unit and \$24.04 for cleaning supplies. While the tenants do not agree on the amount being claimed they did agree on the condition inspection report to the fridge, stove, washer and dryer, trim, baseboards and kitchen cabinets being dirty. In addition to the above, I have considered the two receipts submitted in evidence both of which support these claims by the landlords. Based on the condition inspection report, the testimony of the parties and the receipts provided, I find the landlords have met the burden of proof for the full amount being claims for these items of **\$124.04**.

**Item #4** – This item was related to garbage disposal costs in the amount of \$8.19. I have reviewed the condition inspection report, the receipt for \$8.19, and the testimony of the parties and agree with the landlord that large books would not be removed during roadside recycling and that the amount claimed is reasonable. Furthermore, I find that it was the responsibility of the tenants to remove those items before they vacated which they failed to do which resulted in the landlord having to pay a disposal fee of \$8.19. Based on the above, I find the landlord has met the burden of proof and is entitled to **\$8.19** for garbage disposal costs as claimed.

As the landlords' application had merit, I grant the landlords the recovery of the cost of the filing fee pursuant to section 72 of the *Act* in the amount of **\$50.00**.

As mentioned above, item 6 was dismissed as the landlord is not entitled to the recovery of the cost of registered mail fees.

The landlords continue to hold \$450.00 of the tenants' security deposit and pet damage deposit; namely \$25.00 from the pet damage deposit and \$425.00 of the security deposit. Neither of the deposits has accrued any interest to date.

**Monetary Order** – I find that the landlords have established a total monetary claim in the amount of **\$428.98** and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the tenants' deposits as follows:

Item #	Description	Amount
1	Wall repair and painting	\$246.75
2	Cleaning – labour	\$100.00

3	Cleaning – supplies	\$24.04
4	Garbage disposal	\$8.19
5	Filing fee	\$50.00
<b>SUBTOTAL</b>		<b>\$428.98</b>
<i>Less tenants' \$450.00 remaining security deposit and pet damage deposit balance</i>		<i>-( \$450.00)</i>
<b>BALANCE OF DEPOSITS OWED TO TENANTS BY LANDLORDS</b>		<b>( \$21.02)</b>

I **authorize** the landlords to retain **\$428.98** of the tenants' remaining combined balance of the security deposit and pet damage deposit held by the landlords of \$450.00 in full satisfaction of the landlords' claim. I grant the tenants a monetary order pursuant to section 67 of the *Act* for the balance owing by the landlords to the tenants in the amount of **\$21.02**. Should the landlords not pay the tenants, this order must be served on the landlords by the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

### Conclusion

The landlords' application has merit.

The landlords have established a total monetary claim of \$428.98. The landlords have been authorized to retain \$428.98 of the tenants' security deposit and pet damage deposit portion held of \$450.00 in full satisfaction of their claim. The tenants have been granted a monetary order under section 67 for the balance due in the amount of \$21.02. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 11, 2016

---

Residential Tenancy Branch

