



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR MNSD MNDC FF

### Introduction

This hearing dealt with monetary applications by the landlord and the tenants. The landlord, the tenants, counsel for the tenants and two witnesses for the tenants participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

### Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?  
Are the tenants entitled to monetary compensation as claimed?

### Background and Evidence

The tenancy began on March 1, 2014. Rent in the amount of \$2,000.00 was payable in advance on the first day of each month. At the outset of the tenancy, the tenants paid the landlord a security deposit of \$1,000.00. The landlord did not complete a move-in condition inspection report with the tenants.

On January 3, 2016 the landlord served the tenants with a notice to end tenancy for unpaid rent. The notice indicated that the tenants failed to pay \$2,000.00 in rent for January 2016. The effective date of the notice is January 13, 2016. The tenants vacated the unit in January 2016. The landlord returned the tenants' security deposit in November 2015.

### *Landlord's Claim*

The landlord stated that the tenants moved out of the unit on January 10 or 11, 2016, and when she did not hear from them she went into the rental unit. The landlord stated that there was a lot of damage caused by the tenants.

The landlord has claimed \$2,000.00 for January 2016 rent and further compensation for cleaning and repairs. The landlord submitted an estimate from a construction company, in which quotes were provided as follows:

- 1) \$1,965.00 to remove, supply and install 400 feet of new baseboard – in the hearing the landlord stated that she sanded and painted the baseboards herself, and amended this portion her claim to \$400.00 to \$500.00 for her labour;
- 2) \$2,000.00 (landlord amended down from original quote of \$7,500.00) to patch, sand and paint all interior walls;
- 3) \$305.00 to remove, supply and install interior mirrored closet slider – in the hearing the landlord verbally amended this amount to \$129.83;
- 4) \$370.00 to remove, supply and install new door jamb in upstairs bedroom, replace trim around the door and paint – in the hearing the landlord amended this portion of her claim to \$90.00;
- 5) \$600.00 to repaint portion of kitchen ceiling stained by water leak;
- 6) \$110.00 to re-set upstairs tub, check for leaks and reseal – in the hearing the landlord withdrew this portion of her claim;
- 7) \$8,500.00 (landlord amended down from original quote of \$15,400.00) to sand down and refinish hardwood floors;
- 8) \$765.00 to replace damaged cabinet doors in kitchen and bathroom; and
- 9) \$300.00 to remove and replace tile in upstairs bathroom – in the hearing the landlord amended this portion of her claim to \$10.00.

The landlord stated that she did 20 hours of cleaning after the tenants vacated. To support her claim, the landlord submitted 59 photographs of various areas of the rental unit.

The tenants acknowledged that they damaged the mirrored closet door and they would reimburse the landlord \$129.83 for that repair. The tenants disputed the remainder of the landlord's application.

The tenants stated that they vacated the rental unit by the effective date of the notice to end tenancy. They stated that because they only had 10 days to move out, they did not have time to mop and clean the unit. A witness for the tenant acknowledged that in the landlord's photographs the oven and microwave did not appear clean.

The tenants stated that aside from the mirrored closet door, all of the damage to the unit was pre-existing. The tenants stated that when they viewed the unit, the landlord complained about how the previous tenants and their dog(s) had caused extensive damage to the flooring, baseboards, walls and cabinets. The tenants stated that the landlord told them she had spare flooring in the garage to replace the damaged flooring. The tenants stated that they informed the landlord of the water stain on the kitchen ceiling and the seal going around the tub and offered to fix it, but the landlord did not respond. The tenants and their witnesses stated that most of the damage shown in the landlord's photographs existed at the beginning of the tenancy.

#### *Tenants' Claim*

The tenants claimed recovery of their \$1,000.00 security deposit. However, the parties agreed in the hearing that the landlord returned the deposit to the tenants in November 2015.

The tenants submitted that because the landlord did not complete a move-in condition inspection report with them, she extinguished her right to claim against the security deposit for damage to the unit.

#### Analysis

##### *Landlord's Claim*

The tenants did not provide sufficient evidence to establish that they should not be responsible for January 2016 rent. The tenants were clearly in occupation of the unit at the beginning of January and they ought to have paid rent in full at that time. I therefore grant the landlord \$2,000.00 for unpaid rent and lost revenue for January 2016.

The tenants acknowledged that they were responsible for the cost of \$129.83 to repair the mirrored closet door, and I grant the landlord this portion of her claim. The tenants acknowledged that they did not clean the unit before vacating. The landlord did not specifically include cleaning costs as part of her claim; however, I find that it is reasonable to award the landlord a nominal amount of \$200.00 for cleaning.

The remainder of the landlord's claim is dismissed. The landlord did not complete a move-in condition inspection report with the tenants, and therefore there is no evidence of the agreed-upon condition of the unit at the outset. The tenants and their witnesses provided consistent, credible evidence that most, if not all, of the damage was pre-existing.

### *Tenants' Claim*

The tenants applied for recovery of the security deposit; however, the security deposit was returned to them before the end of the tenancy. The tenants would not be entitled to double recovery of the deposit, as the extinguishment provision in the Act only applies to the landlord's ability to claim against the deposit, not the landlord's ability to make a claim for damages. The tenants' application is therefore dismissed.

### *Filing Fees*

As the landlord's application was partially successful, she is entitled to recovery of the \$100.00 filing fee for the cost of their application. As the tenants' application was not successful, they are not entitled to recovery of their filing fee.

### Conclusion

The landlord's monetary claim is partly successful. The tenants' claim is dismissed.

I grant the landlord an order under section 67 for the balance due of \$2,429.83. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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 14, 2016

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Residential Tenancy Branch