



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute codes                      MNSC, MNDC, MNR, FF

### Introduction

A hearing was convened under the *Residential Tenancy Act* (the “Act”) to deal with cross-applications. The landlords applied for compensation for loss or damage and for unpaid rent, authorization to retain the tenants’ security deposit, and recovery of the application filing fee. The tenants applied for return of the security deposit and recovery of the application filing fee.

Both of the landlords and one of the tenant’s mother attended the hearing and were given a full opportunity to be heard, to present documentary evidence, to make submissions, and to respond to the submissions of the other party.

Service of the respective parties’ application, notice of hearing, and evidence was not at issue.

### Issue(s) to be Decided

Are the landlords entitled to monetary compensation?

Is the tenant entitled to return of the security deposit?

Is either party entitled to recover the application filing fee?

### Background and Evidence

It was agreed that this was the second fixed term tenancy agreement between the parties and that it was for a term beginning in September, 2016 and ending May 31, 2017. Rent was \$1,300.00 monthly payable on the first each month. A security deposit of \$650.00 was paid at the beginning of the tenancy and remains in the landlords’ possession.

A condition inspection was conducted and a report was completed by both parties when the tenants moved in on the first one year lease. The tenant gave notice in December, 2016 that she wished to end the tenancy at the end of January, 2017. Rent was paid until the end of

January. The tenant vacated on January 4, 2017. The landlords found a new tenant quickly and are not claiming for loss of rental income.

The move-out condition inspection report was completed on January 27, 2017. The tenant and her mother both participated in the inspection but did not sign off on the report. The landlords sent the tenant the move-out condition inspection report as required, as evidenced by an email submitted by the landlords. The tenants' forwarding address was included on the condition inspection report. One of the tenants also sent the landlords her forwarding address by registered mail in February. The landlords applied to retain the security deposit on or about February 7, 2017.

### Cleaning

The landlords testified that they were very familiar with the rental home because they had purchased it from a neighbour's estate. They stated that their former neighbour had renovated the home, and it was bright and clean. The move-in condition inspection report, which the tenant signed, indicates as much.

The landlords claimed that they are entitled to cleaning costs because the rental unit was left unclean. They testified that there were cat feces in one of the unused rooms, which the tenant picked up during the move-out inspection, although she did not treat the stain left by it. At that point the tenant said "I guess I am not getting my cleaning deposit back." The showers were coated in soap scum, there was grime on the floors, and a broken light bulb which the tenant said she could not get out of its socket. The carpet had not been shampooed. The move-out inspection report and photographs submitted by the landlords indicate that the unit was in need of cleaning. The landlords also submitted a letter from the new tenant dated February 8, 2017, advising that he visited the rental unit on January 27, 2017 at which point it was not clean.

They testified that they cleaned for nine hours, for which they charged a rate of \$25.00/hour (the rate charged by their own cleaning person), for a total of **\$225.00**. They also claim **\$112.00** for carpet shampooing, and provided an estimate for this.

In written submissions the tenant said that the home was cleaned at move out, and that during the condition inspection the landlord only complained about the toilets and one carpet. The tenant submitted photographs in evidence, two of which were taken at move out and showed clean living room and kitchen from a very general perspective (the photo does not show the surface or interior of the appliances, for instance). Other photos submitted by the tenant show the residential property at move-in and are not relevant to the questions before me. The tenant also submitted a letter from the person who had cleaned the home for her.

In written submissions the tenant said that the home was dusty and some areas were greasy at move in. The tenant's mother said that the home was dusty and had mouse feces in it when her daughter moved in.

The tenants' written submissions also outline work and cleaning and money spent by the tenants over the term of the tenancy.

### Fuel

The landlords claim a total of **\$1,110.82** for the tenants' use of fuel. The tenancy agreement indicates that heating is not included. An addendum to the agreement does not address fuel but does address wood. The landlords testified that when the tenant moved in, they told her that they used a certain fuel company for the furnace and they assumed that the tenant would arrange for her own fuel account.

The landlords further stated that they did not dip the fuel tank when the tenant moved in. However, they say that they are aware of approximately how much fuel was in the tank at that time because the landlord asked the former owner's estate for that information. The last fill of the 1200 liter tank was in February of 2015. A record of that fill was in evidence. The former owner died in April of the same year. The landlords themselves used 300 liters between February and April of 2015, and have therefore estimated that there would have been approximately 400 liters used by the former owner, and 800 liters remaining when the tenant first moved in.

The landlords dipped, or measured, the tank when the tenant moved out, and realized that it was very low. The temperature was very low, and the landlord's fuel company advised adding some fuel on a temporary basis until the company's large truck could enter the property. The landlords went to the local gas station and purchased small amounts of fuel to fill the tank twice before the fuel company could replenish it completely. Receipts for these were in evidence. The landlords also claim for a portion of the costs of filling the tank on the calculations set out in the paragraph above. Again, a receipt for this was in evidence.

In response the tenant says that when she moved in the landlords told her that she did not need to pay for the oil in the tank, and that the estate's lawyer had already paid for it. The tenants' agent simply said that the tenant did not use oil for the first year of the tenancy and knows that she only used one quarter of the tank during the second year. She maintained that she knew this based on how much she used the heating system. She did not dip the tank or otherwise measure.

### Septic call

The landlords also claim for the cost of an emergency call-out for the septic tank. They say that they received a call from the tenant October 15, 2016 that the septic tank was overflowing. The landlord sent a company out, and the company discovered the tank was not full, but blocked. They pumped the tank out regardless, and when they did they opened the blocked drain. The landlord paid a sum to have the tank pumped and an additional **\$128.00** for the emergency

call-out. They claim the additional amount because they would not have addressed the issue as an emergency had the tenant not misinformed them that the tank was overflowing.

### Other

The landlords also appear to be claiming **\$143.46** for cleaning a blocked drain. They did not focus on this in their submission and did not point me to documentary evidence regarding the issue. The tenant in her written submissions says that the pond drain was blocked while they lived there and that both the tenant and the landlords tried to unplug it over the course of the tenancy. The tenants' efforts included purchasing a sub pump to drain in.

The landlord also claims **\$25.00** for key replacement. The move-out inspection report indicates missing keys. The tenant notes that there is no receipt in evidence for the key.

### Analysis

Although I accept that the rental unit was cleaned and left relatively clean when the tenant vacated, I also accept that it required more cleaning. This is not surprising in light of the size of the home. I accept the landlords' claim for cleaning in the amount of **\$225.00** and for carpet shampooing in the amount of **\$112.00**.

Although it would have been better for the landlord to include a provision on fuel usage in the addendum, I find that it is fair for the tenant to pay for the amount of fuel that she used, and award the **\$1,110.82** claimed by the landlords. Residential Tenancy Policy Guideline #1 states that the tenant must leave oil tanks at the level they were in at the start of the tenancy.

I do not award the amount claimed for the emergency septic call out. The landlords say that they relied on the tenants' assessment of what was required in deciding to ask for immediate attendance by the septic company. The landlords are responsible for this sort of maintenance and repair and should have assessed the situation themselves before incurring the cost of an emergency call out.

I do not award the cost of clearing the blocked drain in the backyard pond. Residential Tenancy Policy Guideline #1 suggests that the landlord is responsible for major property maintenance such as this.

I do not award the costs of key replacement as there is no supporting documentation.

Conclusion

Based on the analysis above, the landlords are entitled to **\$1,447.82** in compensation.

As the landlords were successful in this application, I find that the landlords are also entitled to recover the **\$100.00** filing fee.

The landlords continue to hold the tenants' security deposit of **\$650.00**. Over the period of this tenancy, no interest is payable on the deposit. In accordance with the offsetting provisions of s. 72 of the Act, I authorize the landlords to retain the security deposit in partial satisfaction of the monetary claim.

The landlord is given a formal order for the balance of **\$897.82** and the tenant must be served with a copy of this order as soon as possible. Should the tenant fail to comply with it, it may be filed in the Small Claims division of the Provincial Court and enforced as an order of that Court.

This decision is final and binding on the parties, except as otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the Act.

Dated: June 29, 2017

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Residential Tenancy Branch