



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNSD, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlords seeking a monetary order for damage to the unit, site or property, for an order permitting the landlords to keep all or part of the pet damage deposit or security deposit, and to recover the filing fee from the tenants for the cost of the application.

One of the landlords attended the hearing and gave affirmed testimony, and also represented the other landlord. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenants joined the call. The landlord testified that the tenants were individually served with the Landlord Application for Dispute Resolution and notice of this hearing by registered mail on April 13, 2017 and orally provided Canada Post tracking numbers. The landlord was given the opportunity to send to me by facsimile proof of such service after the hearing concluded. I have now received print-outs from Canada Post tracking the items, and I am satisfied that the tenants have both been served in accordance with the *Residential Tenancy Act*.

### Issue(s) to be Decided

- Have the landlords established a monetary claim as against the tenants for damage to the unit, site or property?
- Should the landlords be permitted to keep all or part of the pet damage deposit or security deposit in full or partial satisfaction of the claim?

### Background and Evidence

The landlord testified that the parties entered into a fixed-term tenancy agreement, for a tenancy to begin on January 9, 2016 which expired on December 9, 2016, for rent in the amount of \$3,600.00 per month. A new tenancy agreement was entered into for a fixed term to commence on December 9, 2016 and ending on May 31, 2017 at which time the

tenants were required to vacate the rental unit, however the parties mutually agreed to end the tenancy on March 15, 2017. Copies of both tenancy agreements have been provided as evidence for this hearing.

At the outset of the first tenancy the landlords collected a security deposit from the tenants in the amount of \$1,500.00 as well as a pet damage deposit in the amount of \$1,500.00, both of which are still held in trust by the landlords.

A move-in condition inspection report was completed at the beginning of the tenancy, and a copy has been provided for this hearing. The landlords moved into the basement suite of the rental home during the tenancy and rent was decreased. A move-out condition inspection report was completed once the tenants moved out of that portion of the rental home, and a copy has been provided for this hearing. Another move-out condition inspection report was completed at the end of the tenancy, and a copy has also been provided.

The landlords requested a forwarding address from the tenants who advised that they would be travelling and didn't have a forwarding address, but emailed the landlords on March 22, 2017 with an address for service, which is the address the landlords used to serve the tenants with the hearing packages for this hearing.

The landlords have provided a monetary order worksheet setting out the following claims:

- \$2,225.00 for repairs to the rental unit, and an invoice detailing the work has been provided as evidence as follows:
  - \$900.00 to replace the trim and sill around the window in the master bedroom ensuite;
  - \$965.00 for various drywall and painting repairs;
  - \$50.00 for plumbing repair;
  - \$215.00 for irrigation repair for the lawn and garden;
  - \$95.00 for an outside tap replacement.

The landlord testified that the frame around the window in the ensuite bubbled and appears to have had some sort of chemical applied causing it to swell and split. The rental unit also required repainting and various repairs to the drywall. The tenants had an alarm system and drilled holes in the walls and ceiling, and mounted a television against a wall and tried to repair it, but used incorrect filler. A knife was stuck in the drain trap in the kitchen preventing the dishwasher and sink from draining quickly enough causing it to overflow. The tenancy agreement provides that the tenants will ensure that the irrigation system is blown out to prevent damage in winter, but the tenants failed to do so and it

required repair at the end of the tenancy. Similarly, the tenants didn't remove a hose in winter causing damage to the outside tap.

The landlords' Monetary Order Worksheet also claims:

- \$272.70 for light bulbs;

and the landlord testified that the lights are recessed and the tenants had replaced some with a higher watt bulb. A sensor shuts off a circuit to prevent fire. The landlords had left some spares of the correct bulbs, but the tenants didn't use them, and the landlords didn't know they weren't using them.

- \$564.06 for carpet cleaning; as agreed to in the tenancy agreement;
- \$105.00 for cleaning the rental unit after the tenants vacated.

The landlord testified that the tenants did no move-out cleaning at all, and the landlords claim 3 hours at \$35.00 per hour which is what they pay other cleaners.

### Analysis

Where a party makes a monetary claim against another party for damages, the onus is on the claiming party to satisfy the 4-part test:

1. that the damage or loss exists;
2. that the damage or loss exists as a result of the other party's failure to comply with the *Residential Tenancy Act* or the tenancy agreement;
3. the amount of such damage or loss; and
4. what efforts the claiming party made to mitigate any damage or loss suffered.

A tenant is required to repair any damage caused by the tenant and leave a rental unit reasonably clean and undamaged at the end of a tenancy except for normal wear and tear.

I have reviewed the move-in and move-out condition inspection reports, the invoices and the tenancy agreements, and I accept the undisputed testimony of the landlord that the damages claimed in the \$2,225.00 invoice were caused by the tenants. I am also satisfied that the landlords provided proper light bulbs for the tenants thereby mitigating any damage. The tenancy agreement clearly provides that the tenants will have carpets professionally cleaned at the end of the tenancy, and I accept the undisputed testimony of the landlord that it had not been completed, nor had the rental unit been cleaned at the end of the tenancy.

In the circumstances and evidence before me, I find that the landlords have established the \$3,126.00 claim. Since the landlords have been successful with the application the landlords are also entitled to recovery of the \$100.00 filing fee.

I order the landlords to keep the \$1,500.00 security deposit and the \$1,500.00 pet damage deposit in partial satisfaction of the claim and I grant a monetary order in favour of the landlord as against the tenants for the difference in the amount of \$226.00.

### Conclusion

For the reasons set out above, I hereby order the landlords to keep the \$1,500.00 security deposit and the \$1,500.00 pet damage deposit in partial satisfaction of the claim and I grant a monetary order in favour of the landlords as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$226.00.

This order is final and binding and may be enforced.

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: September 14, 2017

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Residential Tenancy Branch