



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNSD, FF

### Introduction

This was a cross-application hearing for Dispute Resolution under the *Residential Tenancy Act* ("the Act"). The matter was set for a conference call hearing.

On June 8, 2017, the Landlords applied to keep all or part of a pet damage deposit or security deposit, and to recover the cost of the application fee.

On June 15, 2017, the Tenants applied for the return of the security deposit and to recover the cost of the application fee.

The Landlord's agent ("the Landlord") and Tenants were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing. The parties testified that they have exchanged the documentary evidence that is before me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

- Did the Landlords apply to keep the security deposit and pet damage deposit within 15 days of the end of tenancy?
- Are the Landlords entitled to retain all or part of the security deposit or pet damage deposit for damage to the rental unit?
- Are the parties entitled to recover the cost of the filing fee?

### Background and Evidence

The parties testified that the tenancy began on May 27, 2016, as a one year fixed term tenancy. Rent in the amount of \$2,300.00 was due by the 27th day of each month. The

Tenants paid a security deposit of \$1,150.00 and a pet damage deposit of \$1,150.00 to the Landlord.

The Parties testified that the Tenants moved out of the rental unit on May 26, 2017. The Landlord returned the pet damage deposit of \$1,150.00 to the Tenants on May 26, 2017. The Landlord is holding the security deposit of \$1,150.00.

#### Landlord's Application

The Landlords claim that the Tenants left the rental unit damaged and dirty at the end of the tenancy. The Landlords are seeking compensation in the amount of \$681.00 for the following items:

Cleaning	\$200.00
Repairs and Painting	\$315.00
Damage to Grass	\$63.02
Hardwood and laminate damage	\$43.56
Smart Key	\$34.63
Fireplace Cleaning	\$25.00

The Landlords and Tenants both provided a copy of a Condition Inspection Report ("the Report") that was completed by the parties at the time of the move in and move out inspection. The Report indicates that a move in inspection was conducted on May 21, 2016. The Report indicates that a move out inspection was conducted on May 27, 2017. The report contains the signatures of the Landlord and Tenant.

#### Cleaning

The Landlord testified that the Tenants were not ready to move out at the time of the move out. The Landlord submitted that the Tenants were offered additional time to have the unit ready for the move out inspection.

The Landlord testified that the Tenants left the rental unit in an unclean condition. The Landlord testified that the blinds were dusty, and the bathroom unclean. The Landlord referred the Condition Inspection Report ("the Report") to show the condition of the unit at the time of the move out inspection. The Landlord provided 38 color photographs showing the condition of the rental unit at the time of the move out inspection.

The Landlord testified that they hired a contractor to clean the rental unit. The Landlord has provided a receipt dated May 30, 2017, in the amount of \$200.00 for the cost to clean the unit. The Landlord testified that it took 8 hours of cleaning @ \$25.00 per hour.

In response, the Tenants replied that they cleaned the unit before they moved out and pointed out that the house was not clean when they moved in. The Tenants testified that they were still cleaning the unit at noon on the day of the move out and that they cleaned until 3:00 or 4:00 pm.

#### Repairs and Painting

The Landlord testified that the rental property was purchased in 2015 and the interior of the unit was painted in March 2015.

The Landlord testified that the walls and baseboards were damaged and he hired a professional to repair the baseboards and paint the walls. The Landlord referred to the Report that indicates there were nicks and screw holes in the walls. The Landlord referred to the photographs he provided that show nicks to the baseboards. The Landlord provided an invoice from a painting company dated May 28, 2017, in the amount of \$315.00 for patching walls and painting trim.

In response, the Tenants referenced the Report which they submit indicates that some of the damage existed at the start of the tenancy.

#### Damage to Grass

The Landlord testified that the Tenants are responsible for damaging the lawn with their vehicle. The Landlord testified that he completed the repair himself and is claiming for the materials and labour to repair the lawn. The Landlord provided a receipt dated June 7, 2017, for the cost of grass seed and soil.

In response, the Tenants acknowledged that they are responsible for the damage to the lawn. The Tenants agree to pay the cost of the materials but do not agree with paying \$25.00 for the Landlords labour to repair the damage.

#### Hardwood and Laminate Damage

The Landlord submitted that the Tenants are responsible for damage to the hardwood flooring in the Livingroom. The Landlord referred to the Report which indicates there was a scratch on the floor. The Landlord provided a photograph of the scratches on the Livingroom floor.

The Landlord provided a receipt dated May 28, 2017, for the cost of a floor touch up repair kit. The Landlord completed the repair himself and is seeking \$25.00 for his labour for the repair.

In response, the Tenant acknowledged that they are responsible for the damage to the floor.

#### Smart Key Replacement

The Landlord submitted that they needed to purchase a replacement smart key for a pet door. The Landlord is seeking \$34.63 for the replacement cost.

In response, the Tenants agreed to pay the replacement cost for the key.

#### Fireplace Cleaning

The Landlord testified that he found the glass door of the gas fireplace to be dirty with soot. The Landlord testified that he performed the cleaning of the glass door himself. The Landlord is seeking \$25.00 for the cost of cleaning the fireplace.

In response, the Tenants testified that the fireplace is a gas fireplace and it is a sealed unit and is not designed to be opened for cleaning.

#### Security Deposit

The Landlords are requesting to keep \$681.21 from the security deposit of \$1,150.00 in satisfaction of their claims for cleaning and damage.

The Tenants provided their forwarding address in writing within the Report on May 27, 2017. The Landlord applied for dispute resolution on June 8, 2017.

#### Tenant's Application

The Tenants refute the majority of the Landlord's claims and are seeking the return of the security deposit.

#### Analysis

Section 21 of the Residential Tenancy Regulation states:

*in dispute resolution proceedings, a condition inspection report completed in accordance with this Part is evidence of the state of repair and condition of the rental unit or residential property on the date of the inspection, unless either the landlord or the tenant has a preponderance of evidence to the contrary.*

The Residential Tenancy Policy Guideline # 16 Claims in Damages states:

*An arbitrator may award monetary compensation only as permitted by the Act or the common law. In situations where there has been damage or loss with respect to property, money or services, the value of the damage or loss is established by the evidence provided.*

*A party seeking compensation should present compelling evidence of the value of the damage or loss in question.*

The Residential Tenancy Policy Guideline #1 Landlord & Tenant – Responsibility for Residential Premises states:

*A tenant is generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest.*

Residential Tenancy Policy Guideline # 17 Security Deposit and Set Off states

*The landlord has 15 days, from the later of the day the tenancy ends or the date the landlord receives the tenant's forwarding address in writing to return the security deposit plus interest to the tenant, reach written agreement with the tenant to keep some or all of the security deposit, or make an application for dispute resolution claiming against the deposit. If the landlord does not return or file for dispute resolution to retain the deposit within fifteen days, and does not have the tenant's agreement to keep the deposit, the landlord must pay the tenant double the amount of the deposit.*

Based on the evidence and testimony before me, and on a balance of probabilities, I find as follows:

### Cleaning

I find that the Tenants are responsible for the cleaning costs at the end of the tenancy. I accept the Report and photographs as evidence that the rental unit was left unclean.

I award the Landlord the amount of \$200.00 for the cleaning costs.

### Repairs and Painting

I find that there is insufficient evidence that the Tenants are responsible for some of the damage to the baseboards. While I accept that the photographs show damage to the baseboards, I find that the Report indicates there were nicks and unpainted areas on the walls and trim in two of the bedrooms at the start of the tenancy.

The Landlord has provided insufficient evidence to establish that the Tenants are responsible for damaging all the baseboards in the rental unit and the Landlord's claim of \$315.00 is dismissed.

#### Damage to Grass

I grant the Landlord \$63.02 for damage to the grass. The Tenants acknowledged that they are responsible for the damage and I find it reasonable that they are responsible for the materials and labour cost for the repair.

#### Hardwood and Laminate Damage

I grant the Landlord \$43.56 for the cost to repair damage to the laminate floor. The Tenants acknowledged that they are responsible for the damage and I find it reasonable that they are responsible for the materials and labour cost for the repair.

#### Smart Key Replacement

I grant the Landlord \$34.63 for the cost of a replacement key. The Tenants acknowledged that they are responsible for the lost key.

#### Fireplace Cleaning

The Landlord's claim for his labour to clean the fireplace is dismissed. I find that the fireplace operates on gas, and there should be little to no soot present. I find that the fireplace was not designed to be easily opened and cleaned. I find that it is not the responsibility of the Tenants to clean the inside of the gas fireplace.

#### Security Deposit

The tenancy ended on May 26, 2017, when the Tenants moved out of the rental unit. The Landlord applied for dispute resolution making a claim against the deposit within the required timeframe. The amount of the security deposit does not double.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlords were mostly successful in their

application, I order the Tenants to pay for the Landlords cost of the filing fee for this hearing.

The Landlord has established a monetary claim in the amount of \$341.21 for the cost of cleaning and repairs and \$100.00 for the filing fee. I authorize the Landlord to retain the amount of \$441.21 from the security deposit of \$1,150.00.

I order the Landlord to return the balance of the security deposit in the amount of \$708.79 to the Tenants.

I grant the Tenants a monetary order in the amount of \$708.79. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Landlord is cautioned that costs of such enforcement are recoverable from the Landlord.

#### Conclusion

The Landlord established a claim for cleaning and damage to the rental unit.

I authorize the Landlord to retain \$441.21 from the security deposit.

I grant the Tenants a monetary order in the amount of \$708.79 for the balance of the security deposit. This order must be served on the Landlord and may be enforced in Provincial 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: December 14, 2017

---

Residential Tenancy Branch