



# 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 dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for an Order of Possession for:

- authorization to retain the tenants' security deposit in partial satisfaction of the monetary order requested, pursuant to section 38;
- a monetary order for compensation for damage, money owed or losses under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

While the landlord's agent, JS ('landlord'), attended the hearing by way of conference call, the tenants did not. I waited until 2:10 p.m. to enable the tenants to participate in this scheduled hearing for 2:00 p.m. The landlord's agent was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord's agent testified that the tenants were served with the landlord's application for dispute resolution hearing package ('Application') and evidence on September 15, 2017, by way of registered mail. The landlord provided Canada Post a tracking number in their evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's application and evidence on September 20, 2017, five days after its registered mailing.

### **Issue(s) to be Decided**

Is the landlord entitled to monetary compensation for damage, or losses?

Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover their filing fee for this application?

### **Background and Evidence**

The landlord's agent testified regarding the following facts. This month-to-month tenancy began on December 1, 2015, and ended on August 31, 2017. Monthly rent was set at \$2,700.00, and the landlord collected a security deposit of \$1,350.00. The landlords returned \$898.00 to the tenants at the end of the tenancy, retaining \$452.00.

The landlord is applying for a monetary order in the amount of \$784.50 as the tenants moved out, and failed to re-paint the apartment to restore the walls to the original neutral colour. The landlord's agent testified that the apartment was newly painted at the beginning of the tenancy. The landlord's agent also testified that the tenants failed to properly clean the apartment. The landlord provided in their evidence estimates of the cost of performing the necessary cleaning and repainting to re-rent the suite.

### **Analysis**

Section 37(2)(a) of the *Act* stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. I find that the landlord provided sufficient evidence to show that the tenants did not take reasonable care and attention when vacating the suite. I find that the landlord provided supporting documentation to demonstrate the value of their loss. Accordingly, I find the landlord is entitled to compensation for these losses. I issue a monetary award of \$784.50 for the cost of cleaning and repainting due to the tenants' failure to comply with section 37(2)(a) of the *Act*.

I find that the landlord's Application has merit and that the landlord is entitled to recover the fee for filing this Application.

In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the remaining portion of the tenants' security deposit plus applicable interest in satisfaction of the monetary claim. Over the period of this tenancy, no interest is payable on the security deposit.

### **Conclusion**

I issue a Monetary Order in the amount of \$432.50 in the landlord's favour under the following terms which allows the landlord to retain the remaining portion of the security deposit in satisfaction of the monetary claim for damages and losses, plus recover the \$100.00 filing fee for this application.

<b>Item</b>	<b>Amount</b>
Painting	\$724.50
Cleaning	60.00
Filing Fee	100.00
Less Security Deposit	-452.00
<b>Total Monetary Order</b>	<b>\$432.50</b>

The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: April 5, 2018

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Residential Tenancy Branch