



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNSD, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the “Act”), for a monetary order for money owed, for return of double the security deposit and to recover the cost of the filing fee from the landlord.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Issues to be Decided

Are the tenants entitled to a monetary order for money owed?

Are the tenants entitled to the return of double the security deposit?

### Background and Evidence

The parties agreed that the tenancy began on December 1, 2017. Rent in the amount of \$1,735.00 was payable on the first of each month. The tenants paid a security deposit of \$837.50. The tenancy ended on May 30, 2018.

The tenants claim as follows:

a.	Double the security deposit	\$1,725.00
b.	Labour for painting	\$2,425.00
c.	Painting supplies	\$ 896.59
d.	Filing fee	\$ 100.00
	<b>Total claimed</b>	

#### Double the security deposit

The tenants testified that they provided their forward address to the landlord in writing when they gave written notice to end the tenancy. The tenants stated that they first left it in their mailbox as instructed by the landlord; however, the landlord did not pick it up.

The tenants testified that they then gave the landlord, in person, the letter containing their forward address when the landlord attended at the rental unit.

The landlord testified that they received the tenant notice to end tenancy by email. The landlord stated that they accepted that notice. The landlord stated that they asked for the tenants to provide a confirmation in writing.

The landlord testified that they never received the written confirmation. The landlord stated that they did not get the tenants forwarding address until they were served with the tenant's application for dispute resolution.

#### Labour for painting

The tenants acknowledged that they did not have any agreement with the landlord to pay for labour for repainting the rental unit.

#### Painting supplies

The tenants testified that when they rented the premises they were given permission to paint. The tenants stated that the landlord agreed that they would pay for the cost of the paint and supplies. The tenants stated that the landlord was given copies of the receipts; however, the landlord has refused to pay for the supplies. Filed in evidence are emails between the parties. Filed in evidence are invoice for materials.

The landlord testified that they recently painted the rental unit; however, the tenants wanted to change the shade of white paint. The landlord stated that they gave the tenants permission to paint the walls. The landlord stated that they did not agree to the tenants painting ceiling, the wainscoting, or the floors.

The landlord testified that the amount the tenants are claiming for the paint and supplies in the amount of \$896.59 is extremely high. The landlord stated that the tenants only

painted one room. The landlord stated that when they had the entire unit previously painted in March 2017 the entire cost of supplies was \$240.00. The landlord stated in June 2018, they had to repaint the rental premise after the tenants vacated and the total cost of supplies was \$345.00, which was consistent with the earlier amount for painting for the entire premises. Filed in evidence are copies of the invoices from two (2) independent contractors.

The landlord testified that the tenants must have added other receipts for painting, as the receipts are issued to 5 different parties. The landlord stated that the supplies are also excessive as there are multiple purchases for the same items.

The tenants argued that they did not paint one room. That they painted three coats of paint in the front bedroom, the hallway, ceilings and the wainscot and 60% of the kitchen. The tenants stated that the floors were also painted and sealed. The tenants stated that they used account of family to reduce the cost of painting.

The tenants argued that the landlord was fully aware of the work they were doing in the rental unit.

### Analysis

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

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the tenants have the burden of proof to prove their claim.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

### Double the security deposit

In this case, both parties have provided a different version and both are plausible; however, the burden of proof is on the tenants.

I find the tenants have not met that burden. Therefore, I find doubling of the security deposit is not appropriate.

However, the landlord acknowledged they received the tenants forwarding address in the application. Therefore, I find it appropriate to make the following order.

**I Order the that landlord has until February 26, 2019 to either make an application claiming against the security deposit or returning the security deposit in full to the tenants. Should the landlord fail to comply with the above Order, I grant the tenants permission leave to reapply.**

#### Labour for painting

The tenants did not have an agreement with the landlord to be compensated for labour. Therefore, I dismiss this portion of the tenants claim.

#### Painting supplies

In this case, I am satisfied that the landlord gave the tenant's permission to paint the walls and would be reimbursed the cost for painting.

However, I am not satisfied that the tenants were give permission to paint the ceilings, floors or the wainscot. As required by the Residential Tenancy Policy Guideline 1, the tenants must have the explicit consent of the landlord to do so.

Further, the amount claimed by the tenants is questionable because the cost of the paint previously purchased for this premise in March 2017, prior to tenancy starting and cost of repaint the unit in June 2018, after the tenancy ended are significant lower. However, the differences in the cost of supplies for the before and after painting were similar, \$240.00 and \$345.00, a \$105.00 difference.

The costs of the supplies the tenants have claimed are \$896.00, which is \$551.00 difference. This is about as approximately a 138% increase.

This leads me to believe an unreasonable amount of paint and supplies were purchased or alternatively that there are receipts that were submitted that are not for the subject rental unit.

The invoices submitted are from multiple venders and are issued to various different accounts. The job title also different some say cash which would be reasonable if using another account and others say "tammy", which is not either name of the tenant. I find based on the evidence there is no way for me to determine if the receipts are genuine to this tenancy.

I find both parties have a responsibility in this matter to ensure what work is explicitly allowed. This should be done in writing and clearly express leaving no misunderstanding.

Based on the above, I find it appropriate to grant the tenants half of their claim for supplies, as I am not satisfied that had the explicit consent for all work completed or the validity of all the receipts. This amount would be consistent or within reason with the cost of the materials used to paint the premises before tenancy commenced and after the tenancy ended. Therefore, I find the tenants are entitled to recover the amount of **\$448.29**.

I find that the tenants have established a total monetary claim of **\$548.29** comprised of the above described amounts and the \$100.00 fee paid for this application. I grant the tenants a formal order pursuant to section 67 of the Act.

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 tenants are granted a monetary order. The tenants are granted leave to reapply for the return of their security deposit, if the landlord does not comply with my Order.

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: February 4, 2019

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Residential Tenancy Branch