



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP. and  
[tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      FFL MNDL-S

### **Introduction**

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "**Act**") for:

- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- a monetary order for damage to the rental unit in the amount of \$641 pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The landlord was represented by its property manager ("**CF**"). Both tenants attended the hearing. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

CF testified, and the tenants confirmed, that the landlord served the tenants with the notice of dispute resolution form and supporting evidence package. The tenants testified, and CF confirmed, that the tenants served the landlord with their evidence package. I find that all parties have been served with the required documents in accordance with the Act.

### **Issues to be Decided**

Is the landlord entitled to:

- retain the security deposit in partial satisfaction of the monetary order;
- a monetary order for damage to the rental unit in the amount of \$641; and
- recover the filing fee for this application from the tenants?

## **Background and Evidence**

While I have considered the documentary evidence and the testimony of the parties, not all details of their submissions and arguments are reproduced here. The relevant and important aspects of the parties' claims and my findings are set out below.

The parties entered into a written tenancy agreement starting September 1, 2015. Monthly rent was \$1,025.52. The tenants paid the landlord a security deposit of \$250. The landlord still retains this deposit. The tenants vacated the rental unit on July 31, 2019.

The parties conducted a move-in condition inspection report on September 1, 2019 (the "**Move-In Report**"). The parties completed a move-out condition inspection report (the "**Move-Out Report**") on July 31, 2019. The landlord submitted a copy of both into evidence.

On August 8, 2019, the landlord made an application with the Residential Tenancy Branch seeking damages in the amount of \$741, representing the following:

1. Cost to clean the stove and oven	\$45
2. Replace 1 heat lamp and 3 vanity bulbs	\$40
3. Repair laminate flooring	\$200
4. Replace kitchen countertops	\$300
5. Replace bedroom blinds	\$56
6. Filing Fee	\$100
<b>Total</b>	<b>\$741</b>

### 1. Cleaning

At the hearing, the tenants agreed to pay the landlord's costs to clean the stove and oven.

### 2. Light Bulbs

CF testified that the heat lamp and vanity bulbs in the bathroom were missing at the end of the tenancy. CF testified that the cost to replace these bulbs was \$40. She provided a copy of an invoice supporting this amount.

The tenants did not deny this. Rather, they testified that they replaced these bulbs at their own expense throughout the tenancy, so, they argued, they should not be expected to replace them at the end of the tenancy.

### 3. Laminate Flooring

CF testified that the laminate flooring was damaged to a level beyond reasonable wear and tear. She testified that there was a small circular gouge in the floor in the living room and another similar gouge in the bedroom. She submitted a photo of each.

CF testified that landlord repaired the gouges, rather than replacing the laminate flooring. She testified that the cost to do this was \$100, and not \$200 as the landlord's claim indicated. She provided an invoice supporting this amount.

The tenants agreed that the gouges were present at the end of the tenancy and were not there at the beginning. However, they testified that such gouges were the result of reasonable wear and tear to the floor. The tenants noted that the Move-In Report indicated that the floors in these rooms had scratches at the start of the tenancy. The argued that over the course of the tenancy these scratches grew into the gouges from ordinary use of the floors.

### 4. Countertops

CF testified that there are two countertops in the rental unit (the "**Large Countertop**" and the "**Small Countertop**"). Both are "laminate" countertops. She testified that the tenants damaged the Large Countertop by placing a hot pot on it, leaving a large burn mark on the laminate and by cutting on it near the sink, which left cut marks in the laminate.

CF testified the tenants damaged the Small Countertop. She testified that small pieces of the surface laminate had come off in several places on the Small Countertop. She provided photographs of the damage to each countertop.

CF testified that the countertops were installed in 2012. She testified that the landlord incurred expenses of \$164.64 for new laminate material and \$236.25 in labour to remove and reinstall the sink (\$75.00 plus GST) and to install the replacement laminate (\$150.00 plus GST). She submitted two invoices supporting these amounts. The invoice for the replacement laminate shows that the Large Countertop is 86.5 square feet

(material costing \$121.10 plus GST) and the Small Countertop is 25.5 square feet (material costing \$35.70 plus GST).

The Move-In Report records no damage to either countertop at the start of the tenancy.

The tenants did not deny that either countertop was damaged. Rather they argued that any damage to them was reasonable wear and tear.

## 5. Blinds

CF testified that the venetian blinds in the main bedroom were damaged by the tenants during the tenancy. She submitted a photograph of the blinds which shows that several of the blind's aluminum strips were bent. She testified the cost of replacing the blinds was \$56.

The Move-In Report records no damage to the bedroom blinds at the start of the tenancy.

The tenants did not deny that the blinds were damaged. Rather they argued that any damage to them was reasonable wear and tear.

## Analysis

### Relevant Authorities

Residential Tenancy Policy Guideline 16 sets out the criteria which are to be applied when determining whether compensation for a breach of the Act is due. It states:

The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

Section 37 of the Act states:

**Leaving the rental unit at the end of a tenancy**

37(2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and

Policy Guideline 1 states:

Reasonable wear and tear refers to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion. An arbitrator may determine whether or not repairs or maintenance are required due to reasonable wear and tear or due to deliberate damage or neglect by the tenant.

I will address each of the category of damage the landlord alleges the tenant caused in turn.

I find that the Move-In Report accurately captures the state of the rental unit at the start of the tenancy.

1. Cleaning

As the tenants do not dispute that this amount is payable by them, I order that they pay the landlord \$45.

2. Light Bulbs

Policy Guideline 1 states:

- 1. The tenant is responsible for:
  - a. replacing light bulbs in his or her premises during the tenancy;

As such, the fact that the tenants have replaced the lightbulbs throughout the tenancy is not a reason for them not to have done so at the end of the tenancy. Per Policy Guideline 1, tenants are expected to replace light bulbs as needed during the tenancy. I find that, as a matter of necessity, if the bathroom lightbulbs were missing at the end of

the tenancy, the tenants failed to replace the missing bulbs during the tenancy (as if they did, there would be no missing bulbs at the end of the tenancy).

As such, I find that the tenants breached the Act by failing to replace the lightbulbs. I accept that the landlord suffered a loss of \$40 as a result. I order that the tenants pay the landlord \$40.

## 2. Laminate Flooring

I find that the flooring in the rental unit was gouged as the landlord alleged. Based on my review of the photographs of these gouges, I cannot see how a scratch on the floor would have developed into such a gouge. Additionally, I do not find that such gouges could appear from reasonable wear and tear to the floor. I find that such gouge represent damage beyond reasonable wear and tear. As such, the tenants have breached the Act by failing to repair to gouges and must compensate the landlord for the cost of repairs.

I accept CF's evidence that the landlord paid \$100 to have these gouges repaired. I find that the landlord acted reasonably to minimize its damages in this case. Accordingly, I order that the tenants pay the landlord \$100.

## 3. Countertops

I find that the countertops are damaged as the landlord alleged. Based on my review of the photographs, I find that all the damage to the Small Countertop is within the scope of reasonable wear and tear. However, I find that the knife cuts and burn mark on the Large Countertop are not examples of reasonable wear and tear. I find that it is not reasonable to use knives on an unprotected laminate countertop, nor is reasonable to place a hot pan on the countertop.

Accordingly, I order that the tenants compensate the landlord for the damage to the Large Countertop.

I accept the landlord's evidence that the cost to replace the material of the Large Countertop was \$127.16 (\$121.10 plus GST). The labour invoice submitted by the landlord does not show a cost breakdown of labour for replacing the laminate on each countertop.

However, as the Large Countertop represent 77% total surface area of the combined countertops (area of the Large Countertop divided by area of both Countertops, or  $86.5 \div 112$ ), I find that it is appropriate to adjust the installation cost by a similar amount. Due to its placement, I find that the removal and reinstallation of the sink was necessary to allow for the Large Countertop laminate to be repaired, but not the Small Countertop. According, the tenants must compensate the landlord for this expense entirely.

I find that the labour cost to replace the Large Countertop was \$200.03 (77% of \$150.00 plus GST + \$75.00 plus GST). As such, I find that the damage to the Large Countertop cost the landlord \$327.18 to remedy.

I find that the landlord acted reasonably to minimize its loss.

Policy Guideline 40 sets the useful life of countertops at 25 years. The Large Countertop was seven years at the time it was replaced. Accordingly, the landlord the landlord is not entitled to a full recovery of the amount spent replacing it. The amount it is entitled to must account for the depreciated value of the Large Countertop. As the Large Countertop was 28% through its useful life (7 divided by 25), I find that a 28% reduction (\$91.61) is warranted.

According, I order that the tenants pay the landlord \$235.57, representing repayment of the depreciated value of the Large Countertop.

#### 4. Blinds

Based on my review of the evidence, I find that the damage to the blinds amounts to reasonable wear and tear. I find that these types of blinds are prone to bending as pictured in the landlord's documentary evidence, and such moderate damage is to be expected over the course of a four-year tenancy.

I decline to order that the tenants pay any amount in compensation for the replacement of the blinds.

#### 5. Filing Fee and Security Deposit

Pursuant to section 72(1) of the Act, as the landlord has been substantially successful in this application, it may recover its filing fee from the tenants.

Pursuant to section 72(2) of the Act, the landlord may retain the security deposit (\$250) in partial satisfaction of the monetary order made in this decision.

### **Conclusion**

I order that the tenants pay the landlord \$270.57, representing the following:

Cost to clean the rental unit	\$45.00
Replace 1 heat lamp and 3 vanity bulbs	\$40.00
Repair laminate flooring	\$100.00
Replace Large Countertop	\$235.57
Filing Fee	\$100.00
Security deposit credit	-\$250.00
<b>Total</b>	<b>\$270.57</b>

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 3, 2019

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Residential Tenancy Branch