



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding BROWN BROS. AGENCIES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      MNDL-S FFL

### **Introduction**

The landlord seeks compensation for damage to the rental unit, pursuant to section 67 of the *Residential Tenancy Act* ("Act"). In addition, the landlord seeks compensation to recoup the cost of the filing fee, pursuant to section 72 of the Act.

One of the tenants, and an agent for the landlord (hereafter the "landlord"), attended the hearing on May 13, 2021. No issues of service were raised by the parties, and Rules 6.10 and 6.11 of the *Rules of Procedure* were addressed.

### **Issues**

1. Is the landlord entitled to compensation as claimed?
2. Is the landlord entitled to recover the cost of the application filing fee?

### **Background and Evidence**

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the issues of this dispute, and to explain the decision, is reproduced below.

The tenancy began on August 1, 2018 and ended on December 30, 2020. Monthly rent was \$1,358.00 and the tenants paid a security deposit of \$662.50. There is no pet damage deposit. A copy of a written tenancy agreement was submitted into evidence.

The landlord confirmed that they are seeking \$540.98 from the tenants to pay for the replacement of a damaged countertop and cabinet doors. A copy of an estimate to replace these was in evidence. In addition, a copy of an invoice from when the countertop and cabinet doors were originally installed in 2017 was in evidence.

The landlord gave evidence that when the tenants moved in on August 1, 2018, a Condition Inspection Report was completed. The information recorded reflects that the condition of the cabinet doors to be good.

When the move-out inspection Condition Inspection Report was completed, the information recorded shows that the cabinet door and kitchen counter to be damaged. A copy of these reports (which are contained within one document) was submitted into evidence.

Further, the landlord testified that the tenants had damaged the cabinet doors because they had purportedly hung wet cloths or towels on top of the doors. The water caused the particle board to swell, and there was a separation of the wood. Photographs of the cabinet doors were in evidence. This hanging of wet cloths apparently took place about a year before the tenants moved out. Whether the tenants continued to hang the wet towels or cloths is not known, however, remarked the landlord.

The tenant testified that in September or August of 2018 they started having a problem with humidity in the rental unit. They told the landlord (or a representative of the landlord) about the problem. The landlord provided a dehumidifier, which helped.

The tenant remarked that it is “not correct” that the damage occurred because of hanging wet clothes over the top of the doors. Rather, a towel was hung in order to keep the doors from becoming stuck. The damage was, the tenant explained, caused because of a leak from the sink. Water would run down and onto the doors.

In her rebuttal, the landlord testified that the tenants never brought up any issue with the sink leaking until after they were told not to hang wet towels or clothes on the door. Moreover, if the sink was leaking, then there would likely be other water damage present, and there would be other swelling.

The landlord pointed me to certain aspects of the photographs submitted by the tenants, including the underside of the countertop in which the sink sits. She commented that if the sink had been somehow leaking, one would observe additional damage to the wood. But there was none, and it is, she testified, “a very healthy piece of wood.”

In his rebuttal, the tenant explained that the water from the sink would run onto the counter and then down on top of both doors. That is how the damage was caused – from a faulty, leaking sink – and not by the hanging of wet towels.

## Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 7 of the Act states that if a party does not comply with the Act, the regulations or a tenancy agreement, the non-complying party must compensate the other for damage or loss that results. Further, a party claiming compensation for damage or loss that results from the other's non-compliance must do whatever is reasonable to minimize the damage or loss.

Section 37(2) of the Act states 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. The landlord argued that the tenants caused the damage to the rental unit due to their negligence. Namely, the hanging of wet towels or cloths. The Condition Inspection Report reflects that the condition of the cabinet doors was good at the start of the tenancy and damaged at the end of the tenancy. The tenant did not argue that the damage was caused by reasonable wear and tear, but rather, that it was from a leaking sink.

There is no doubt that the cabinet doors were damaged. The only question is: did the tenants cause the damage, or was it due to the sink leaking?

Having looked at the photographs submitted and having carefully considered the submissions and arguments made by both parties, I am inclined to side with the landlord's position. There is only one place where the sink would be leaking: somewhere near the bottom, where the drain is connected. With respect to the tenant, I find it difficult to believe that the sink leaked from the top. Indeed, the only manner in which a sink could "leak" water out and onto the countertop (and then flow downward onto the doors) is if (1) the sink was filled to the brim and overflowed, or (2) the tenants were negligent, when using the sink or washing dishes, in letting lots of water drip across the countertop which then drained onto the doors below. And, of course, the only other explanation as to how the doors became damaged is that provided by the landlord: the tenants hung wet towels or cloths over the doors, thus causing them to absorb water and become swollen. Further, I do find it rather peculiar that the sink did not appear to be an issue until the property manager pointed out that wet towels ought not to be hung on the doors. All of which is to say, but for the tenants' negligence, the landlord would not have had damaged countertop and cabinet doors.

The amount claimed to repair the doors is, I find, a reasonable amount. Taking into consideration that the countertops were three years old at the time the tenancy ended, I must apply a relatively minor percentage of depreciation. [Residential Tenancy Policy Guideline 40](#) notes that kitchen and bath cabinets have a 25-year useful life. Thus, I must apply a 12% depreciation to \$540.98 for a revised award of \$476.06. I so award the landlord this amount in compensation for the damage.

Finally, section 72 of the Act permits me to order compensation for the cost of the filing fee to a successful applicant. As the landlord succeeded in their application, I grant \$100.00 in compensation to cover the cost of the filing fee, for a total award of \$576.06.

Section 38(4)(b) of the Act permits a landlord to retain an amount from a security or pet damage deposit if “after the end of the tenancy, the director orders that the landlord may retain the amount.” As such, I order that the landlord retain \$576.06 of the tenants’ security deposit in full satisfaction of the above-noted award.

The balance of the security deposit, which is \$86.44, must be returned to the tenants within 15 days of the landlord receiving a copy of this decision.

### Conclusion

**I hereby grant the landlord’s claim and award them \$576.06.**

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: May 14, 2021

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Residential Tenancy Branch