



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDL-S, FFL

### Introduction

This hearing dealt with the adjourned Application for Dispute Resolution by the Landlords filed under the *Residential Tenancy Act* (the “*Act*”) for a monetary order for damages caused by the tenant, their pets or guests to the unit, site, or property, for permission to retain the security deposit, and for the return of their filing fee. The matter was set for a conference call.

Both the Landlords attended this conference call hearing; however, the Tenants did not. As these proceedings were held due to a previously adjourned proceedings, and the Notice of Hearing documents for these proceedings were served to both the Landlords and the Tenants by the Residential Tenancy Branch, I find that the Tenants had been duly notified of the Notice of Hearing in accordance with the *Act*.

Both the Landlords were reminded that the affirmation they provided on August 6, 2021, carried forward to today's proceedings. The Landlords were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing. The Landlords were advised of section 6.11 of the Residential Tenancy Branches Rules of Procedure, prohibiting the recording of these proceedings.

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

- Are the Landlords entitled to a monetary order for damages?
- Are the Landlords entitled to retain the security deposit?
- Are the Landlords entitled to the return for their filing fee for this application?

### Background and Evidence

While I have considered all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The tenancy agreement recorded that this tenancy began on June 1, 2018, as a one-year fixed term tenancy that rolled into a month-to-month tenancy at the end of the initial fixed term. Rent in the amount of \$1,500.00 was to be paid by the first day of each month, and the Landlords had been given a \$750.00 security and a \$250.00 pet damage deposit (the “deposits”) at the outset of the tenancy. The Landlords and the a copy of the tenancy agreement with a one-page addendum into documentary evidence.

The Landlords testified that they did not conduct a move-in inspection with the Tenants for this tenancy.

The parties agreed that the Landlords issued a Two-Month Notice to end tenancy issued on January 31, 2021, by email service, and that that this tenancy ended in accordance with this Notice on February 28, 2021. The parties also agreed that the Tenants served the Landlords with their forwarding address by email on March 3, 2021.

The Landlords submitted a move-out inspection form into documentary evidence. However, the Landlords offered no explanation as to why this document had not been signed by either the Landlords or the Tenants or why there were no names, dates or addresses recorded on this document. The Tenants testified that they attended a move-out walk-through of the rental unit but that no written move-out inspection report was created in their presence.

The Landlords testified that they are claiming \$240.00 in their own labour costs to clean the rental unit at the end of the tenancy. The Landlords testified that the Tenants returned the rental unit to them very dirty and that it took them 12 hours, at \$20.00 per hour, to complete the cleaning to the rental unit. The Landlords submitted 48 pictures of the rental unit at the end of tenancy into documentary evidence.

The Tenants testified that they returned the rental unit to the Landlords reasonably clean at the end of tenancy.

The Landlords testified that they are claiming \$10.68 to replace a cabinet glass shelf that was missing at the end of the tenancy. The Landlords testified that the shelf was there at the beginning of this tenancy and that it was gone when they took the rental unit back from the Tenants. The Landlords submitted one picture and an invoice for the purchase of the new glass shelf into documentary evidence. When asked, the Landlords could not testify to the age of the glass shelf.

The Tenants testified that they did not recall a glass shelf ever being in that wall cabinet and that they did not break a glass shelf during their tenancy.

The Landlords testified that they are claiming \$4,088.97 to replace the carpeting throughout the rental unit at the end of the tenancy. The Landlords testified that the Tenants had not cleaned the carpet at the end of the tenancy and that the carpet was stained and smelt bad and had to be replaced. The Landlords submitted three pictures and an invoice for the purchase and installation of new carpet into documentary evidence. When asked, the Landlords testified that the carpets were at least seven years old at the beginning of this tenancy.

The Tenants testified that the carpets were very old, stained and worn at the beginning of their tenancy and that they should not have to buy the Landlords new carpets.

The Landlords testified that they are claiming \$654.08 to replace the front door of the rental unit at the end of the tenancy. The Landlords testified that the Tenants returned the rental unit with a dented and scraped front door. The Landlords submitted two pictures of the front door into documentary evidence. The Landlords testified that the requested replacement costs were estimated and that they had not submitted receipts for the actual replacement into evidence. The Landlords confirmed that they had purchased the replacement door but that they had not submitted the final receipts into evidence for these proceedings. When asked, the Landlords testified that the door had been replaced once previously in 1995.

The Tenants testified that they did not damage the door during the tenancy and that it was an old door that at most required a fresh coat of paint.

The Landlords testified that they are claiming \$230.00 in wall repair cost at the end of the tenancy. The Landlords testified that the Tenants returned the rental unit to them with marked walls that had several holes in them. The Landlords submitted seven pictures of the walls into documentary evidence. The Landlords testified that the

requested wall repair costs were an estimate and that they had not submitted a receipt for this work into evidence.

The Tenants testified that the Landlords are charging for pre-existing wall damage that was present when their tenancy began and that they had only caused normal wear to the property during their tenancy.

The Landlords testified that they are claiming \$75.00 to repair the outdoor front step at the end of the tenancy. The Landlords testified that the Tenants returned the rental unit to them with a damaged front step. The Landlords submitted two pictures of the front step into documentary evidence.

The Tenants testified that the Landlords are charging for pre-existing damage, and that the front step was old and well worn at the beginning of their tenancy, and that the step had just worn out due to regular use. The Tenants testified that they had not done anything to damage the step during their tenancy.

The Landlords testified that they are claiming \$769.38 to replace window blinds in the rental unit at the end of the tenancy, consisting of \$339.33 for bedroom blinds and \$430.05 in living room blinds. The Landlords testified that the Tenants returned the rental unit to them with a damaged window blinds. The Landlords submitted three pictures of window blinds into documentary evidence. The Landlords testified that the requested replacement costs were an estimate and that they had again not submitted the actual receipts into evidence. The Landlords confirmed that they had purchased the replacement blinds in April 2021 but that they had not submitted the final receipts into evidence for these proceedings. When asked, the Landlords testified that the window blinds were original to the house that was built in the late 1980s.

The Tenants testified that the window blinds were very old and worn at the beginning of their tenancy and that they should not have to buy the Landlords new blinds. The Tenants also testified that they did not damage the blinds during their tenancy, that they are just old, worn out and in need of replacement.

The Landlords testified that they are claiming \$240.46 to replace a damaged curtains at the end of the tenancy. The Landlords testified that the Tenants returned the rental unit to them with a damaged curtain, submitting one picture of the curtain into documentary evidence. The Landlords testified that the requested replacement costs were an estimate and that they had not submitted the actual receipts into evidence. The

Landlords confirmed that they had purchased the replacement curtains but that they had not submitted the final receipts into evidence for these proceedings. When asked, the Landlords testified that the curtains were at least five years old at the beginning of this tenancy.

The Landlords testified that they are claiming \$299.03 to replace a damaged bi-fold door at the end of the tenancy. The Landlords submitted one picture of the bi-fold door into documentary evidence and testified that this door was original to the rental unit. The Landlords testified that the requested replacement costs were an again an estimate and that they had not submitted the actual receipts into evidence.

The Landlords testified that they are claiming \$318.52 to repair a damaged lawnmower at the end of the tenancy. The Landlords testified that the Tenants had advised them in May 2020 that they had damaged the lawnmower when they ran over a tree stump or part of the deck when cutting the grass. The Landlords submitted five pictures of the lawnmower and an invoice into documentary evidence. The Landlords also reference the Tenants documentary evidence of an email string between the Landlords and the Tenants regarding the lawnmower dated May 21, 2020. When asked, the Landlords testified, they had included the lawnmower in the tenancy agreement, reference page two of that document and that it was purchased in 2014.

The Landlords testified that they are claiming \$60.58 to repair a snowblower at the end of the tenancy. When asked, the Landlords testified that they had not included the snowblower in the tenancy agreement.

The Landlords testified that they are claiming \$100.00 to replace two missing wall pictures at the end of the tenancy. When asked, the Landlords testified that they had not included these two hanging pictures in the tenancy agreement.

### Analysis

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

I accept the testimony of the Landlords that they did not conduct the move-in inspection in the presence of the Tenants for this tenancy. Section 23 of the *Act* states the following:

**Condition inspection: start of tenancy or new pet**

- 23** (1) *The landlord and tenant together must inspect the condition of the rental unit on the day the tenant is entitled to possession of the rental unit or on another mutually agreed day.*
- (2) *The landlord and tenant together must inspect the condition of the rental unit on or before the day the tenant starts keeping a pet or on another mutually agreed day, if*
- (a) the landlord permits the tenant to keep a pet on the residential property after the start of a tenancy, and*
  - (b) a previous inspection was not completed under subsection (1).*
- (3) *The landlord must offer the tenant at least 2 opportunities, as prescribed, for the inspection.*
- (4) *The landlord must complete a condition inspection report in accordance with the regulations.*
- (5) *Both the landlord and tenant must sign the condition inspection report and the landlord must give the tenant a copy of that report in accordance with the regulations.*
- (6) *The landlord must make the inspection and complete and sign the report without the tenant if*
- (a) the landlord has complied with subsection (3), and*
  - (b) the tenant does not participate on either occasion.*

I find that the Landlords breached section 23 of the *Act* when they did not conduct the move-in inspection with the Tenants at the beginning of this tenancy as required. Section 24(2) of the *Act* outlines the consequence for a landlord when the inspection requirements are not met.

**Consequences for tenant and landlord if report requirements not met**

- 24** (2) *The right of a landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord*
- (a) does not comply with section 23 (3) [2 opportunities for inspection],*
  - (b) having complied with section 23 (3), does not participate on either occasion, or*
  - (c) does not complete the condition inspection report and give the tenant a copy of it in accordance with the regulations.*

Pursuant to section 24(2) of the Act, I find that the Landlords extinguished their right to make a claim against the security deposits for damage to the residential property for this tenancy.

Additionally, I also reviewed the move-out inspection form submitted into documentary evidence by the Landlords, noting that this document was not completed and is missing key information, consisting of missing the landlord's name, missing the tenant's name, missing the address of the rental unit, missing move-in/move-out/inspection dates, and missing signatures. Section 35 of the Act states the following:

***Condition inspection: end of tenancy***

**35** (1) *The landlord and tenant together must inspect the condition of the rental unit before a new tenant begins to occupy the rental unit*

*(a) on or after the day the tenant ceases to occupy the rental unit,  
or*

*(b) on another mutually agreed day.*

*(2) The landlord must offer the tenant at least 2 opportunities, as prescribed, for the inspection.*

*(3) The landlord must complete a condition inspection report in accordance with the regulations.*

*(4) Both the landlord and tenant must sign the condition inspection report and the landlord must give the tenant a copy of that report in accordance with the regulations.*

Section 20 of the Residential Tenancy Regulations (the "Regulations" states the following regarding the condition inspection report:

***Standard information that must be included in a condition inspection report***

**20** (1) *A condition inspection report completed under section 23 or 35 of the Act must contain the following information:*

*(a) the correct legal names of the landlord, the tenant and, if applicable, the tenant's agent;*

*(b) the address of the rental unit being inspected;*

*(c) the date on which the tenant is entitled to possession of the rental unit;*

*(d) the address for service of the landlord;*

*(e) the date of the condition inspection;*

(f) *a statement of the state of repair and general condition of each room in the rental unit including, but not limited to, the following as applicable:*

- (i) entry;*
- (ii) living rooms;*
- (iii) kitchen;*
- (iv) dining room or eating area;*
- (v) stairs;*
- (vi) halls;*
- (vii) bathrooms;*
- (viii) bedrooms;*
- (ix) storage;*
- (x) basement or crawl space;*
- (xi) other rooms;*
- (xii) exterior, including balcony, patio and yard;*
- (xiii) garage or parking area;*

(g) *a statement of the state of repair and general condition of any floor or window coverings, appliances, furniture, fixtures, electrical outlets and electronic connections provided for the exclusive use of the tenant as part of the tenancy agreement;*

(h) *any other items which the landlord and tenant agree should be included;*

(i) *a statement identifying any damage or items in need of maintenance or repair;*

(j) *appropriate space for the tenant to indicate agreement or disagreement with the landlord's assessment of any item of the condition of the rental unit and contents, and any additional comments;*

(k) *the following statement, to be completed by the tenant:*

*I, .....*

*Tenant's name*

*[ ] agree that this report fairly represents the condition of the rental unit.*

*[ ] do not agree that this report fairly represents the condition of the rental unit, for the following reasons:*

*.....*  
*.....;*

(l) *a space for the signature of both the landlord and tenant.*



*(2) In addition to the information referred to in subsection (1), a condition inspection report completed under section 35 of the Act [condition inspection: end of tenancy] must contain the following items in a manner that makes them clearly distinguishable from other information in the report:*

- (a) a statement itemizing any damage to the rental unit or residential property for which the tenant is responsible;*
- (b) if agreed upon by the landlord and tenant,
  - (i) the amount to be deducted from the tenant's security deposit or pet damage deposit,*
  - (ii) the tenant's signature indicating agreement with the deduction, and*
  - (iii) the date on which the tenant signed.**

I find that the Landlords breached section 35(3) of the Act when they did not complete the written condition inspection report in accordance with the regulations as required. Section 36(2) of the Act outlines the consequence for a landlord when the inspection requirements are not met.

***Consequences for tenant and landlord if report requirements not met***

***36 (2) The right of a landlord to claim against a security deposit or a pet damage deposit, or both, for damage to residential property is extinguished if the landlord***

- (a) does not comply with section 23 (3) [2 opportunities for inspection],*
- (b) having complied with section 23 (3), does not participate on either occasion, or*
- (c) does not complete the condition inspection report and give the tenant a copy of it in accordance with the regulations.*

Pursuant to section 36(2) of the Act, I find that the Landlords had again extinguished their right to make a claim against the security deposits for damage to the residential property for this tenancy.

Section 38 of the Act sets the requirements on how a security deposit is handled at the end of a tenancy, stating the following:

***Return of security deposit and pet damage deposit***

**38** (1) *Except as provided in subsection (3) or (4) (a), within 15 days after the later of*

- (a) the date the tenancy ends, and*
- (b) the date the landlord receives the tenant's forwarding address in writing,*

*the landlord must do one of the following:*

- (c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;*
- (d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.*

(2) *Subsection (1) does not apply if the tenant's right to the return of a security deposit or a pet damage deposit has been extinguished under section 24 (1) [tenant fails to participate in start of tenancy inspection] or 36 (1) [tenant fails to participate in end of tenancy inspection].*

(3) *A landlord may retain from a security deposit or a pet damage deposit an amount that*

- (a) the director has previously ordered the tenant to pay to the landlord, and*
- (b) at the end of the tenancy remains unpaid.*

(4) *A landlord may retain an amount from a security deposit or a pet damage deposit if,*

- (a) at the end of a tenancy, the tenant agrees in writing the landlord may retain the amount to pay a liability or obligation of the tenant, or*
- (b) after the end of the tenancy, the director orders that the landlord may retain the amount.*

(5) *The right of a landlord to retain all or part of a security deposit or pet damage deposit under subsection (4) (a) does not apply if the liability of the tenant is in relation to damage and the landlord's right to claim for damage against a security deposit or a pet damage deposit has been extinguished under section 24 (2) [landlord failure to meet start of tenancy condition report requirements] or 36 (2) [landlord failure to meet end of tenancy condition report requirements].*

I accept the agreed-upon testimony of these parties, and I find that this tenancy ended on February 28, 2021, and that the Tenants had provided their forwarding address to

the Landlords by email on March 3, 2021. Accordingly, these Landlords had until March 18, 2021, to comply with sections 38(1) and 38(5) of the *Act* by repaying the security and pet damage deposits for this tenancy in full to the Tenants, as the Landlords had extinguished their right to claim against either of these deposits for damages caused during this tenancy.

However, in this case, the Landlords did not return the deposits, as required, but instead made a claim against the deposit for damages even though they had extinguished their right to make this claim when they did not complete the move-in or move-out inspections as required and in accordance with the *Act*. Therefore, I find that the Landlords have also breached section 38 of the *Act*.

Section 38(6) of the *Act* goes on to state that if the landlord does not comply with the requirement to return the deposit within 15 days the landlord must pay the tenant double the deposits.

***Return of security deposit and pet damage deposit***

**38 (6)** *If a landlord does not comply with subsection (1), the landlord*  
*(a) may not make a claim against the security deposit or any*  
*pet damage deposit, and*  
*(b) must pay the tenant double the amount of the security*  
*deposit, pet damage deposit, or both, as applicable.*

Consequently, I find that pursuant to section 38(6) of the *Act*, the security and pet damage deposits for this tenancy have doubled in value to the amount of \$2,000.00 due to the Landlords breach of sections 23, 35 and 38 of the *Act*.

As for the Landlords' claims. the Landlords have requested compensation in the amount of \$7,76.02 for damages to the rental unit. Awards for compensation due to damage are provided for under sections 7 and 67 of the *Act*. A party that makes an application for monetary compensation against another party has the burden to prove their claim. The Residential Tenancy Policy Guideline #16 Compensation for Damage or Loss provides guidance on how an applicant must prove their claim. The policy guide states the following:

"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. 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.”

During the hearing, the parties to this dispute offered conflicting testimony regarding the following claims of the Landlords, \$10.68 to replace a glass shelf, \$4,088.97 for new flooring, \$654.08 to replace the front door, \$230.00 to repair walls, \$75.00 to repair the front step and \$769.38 in the bedroom and living room window blind replacement. In cases where two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making a claim has the burden to provide sufficient evidence over and above their testimony to establish their claim, in this case, it is the Landlords who hold the burden of proof in these proceedings.

An Arbitrator normally looks to the move-in/move-out inspection report (the “inspection report”) as the official document that represents the condition of the rental unit at the beginning and the end of a tenancy as it is required that this document is completed in the presence of both parties and is seen as a reliable account of the condition of the rental unit. However, as it has already been determined that this document was not completed in accordance with the *Act*, I am unable to rely on this document.

In the absence of a reliable move-in/move-out inspection report, I must rely on verbal testimony and additional documentary evidence submitted during this hearing regarding the condition of the rental unit at the beginning and the end of the tenancy.

Landlords have submitted six pictures of the rental unit, which they claim were taken at the beginning of this tenancy; I have reviewed these pictures and noted that they are not dated stamped. I have also reviewed the Tenants’ testimony and noted that the Tenants did not agree that these pictures reflected the condition of the rental unit at the time their tenancy began. Therefore, as there is no evidence to show when these pictures were taken at the time this tenancy began, and these parties have not agreed that these pictures accurately reflect the condition of the rental unit at the beginning of

this tenancy, I cannot consider these pictures in my decision, and I find that I have no evidence before that can confirm the condition of the rental unit at the beginning of this tenancy.

As for the condition of the rental unit at the end of tenancy, the Landlords have submitted 56 pictures of the rental unit that they testified were taken at the end of this tenancy; however, as I am not able to compare these pictures to a move-in inspection report or to pictures taken of the rental unit that the parties agreed represented the condition of the unit at the beginning of tenancy, it is impossible for me to determine the change in the condition of this rental unit between move-in and move-out. Additionally, the Landlords are claiming for the full replacement value of these items, but they have failed to demonstrate why these items could not have been repaired or to account for the age and natural wear and tear of all of these items in the amount they have claimed for in these proceedings.

Overall, I find that there is insufficient evidence before me to show that the Tenants damaged any of these items during this tenancy or that the Landlords took the required steps to minimize these losses. Consequently, I dismiss the Landlords' claims for \$10.68 to replace a glass shelf, \$4,088.97 for new flooring, \$654.08 to replace the front door, \$230.00 to repair walls, \$75.00 to repair the front step and \$769.38 in the bedroom and living room window blind replacement in their entirety.

The Landlords have also claimed for the recovery of their cost of \$299.03 to replace a damaged bi-fold door. I have reviewed the picture of the bifold door, and I noted that the picture shows scratches to the claimed item; however, in the absence of documentation to substantiate the condition of this door at the time this tenancy began it is impossible to determine what caused this damage; age, normal wear and tear, damage from previous occupants or damage caused by these tenants. Therefore, in the absence of evidence to prove the condition of the bi-fold door at the beginning of this tenancy, I must dismiss the Landlords' claim on this point.

The Landlords have also claimed for the recovery of their cost for replacing two missing pictures in the amount of \$100.00 and repairing a snowblower in the amount of \$60.58 at the end of tenancy. I have reviewed the tenancy agreement and attached addendum for this tenancy, and I noted that these documents do not indicate that two pictures and a snowblower had been rented to these Tenants as part of this tenancy agreement. Therefore, I find that there is insufficient evidence before me to prove to my satisfaction

that these claimed items were a part of this tenancy, and I dismiss the Landlords claims for both these items.

As for the Landlords claim for \$318.52 to repair a lawnmower. I have reviewed the tenancy agreement and attached addendum for this tenancy, and I noted that a lawnmower had been included in this tenancy agreement. However, as there is no move-in inspection, I am again unable to determine the condition of this lawnmower at the beginning of this tenancy. Additionally, I noted a three-page email string between the Tenants and the Landlords submitted into documentary evidence by the Tenants. This email evidence recorded that the Tenants had reported to the Landlords in May 2020 that this lawnmower required repair and that the Landlords responded with a refusal to repair this lawnmower that had been included in this tenancy. Section 32 of the Act states the following regarding repairs:

***Landlord and tenant obligations to repair and maintain***

*32 (1) A landlord must provide and maintain residential property in a state of decoration and repair that*

*(a) complies with the health, safety and housing standards required by law, and*

*(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.*

*(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.*

*(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.*

*(4) A tenant is not required to make repairs for reasonable wear and tear.*

*(5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.*

Based on this email evidence, I find that the Landlords had an obligation to repair the lawnmower in the spring of 2020 when it was first reported as requiring repair. Also, as there is no evidence of the condition of the lawnmower at the beginning of this tenancy, and that it took over a year of the Landlords to attend to the required repair, I am unable to determine if the required repair to this lawnmower claimed for in these proceedings was a result of these Tenants actions, neglect of the Landlords to maintain their

property or if this was a pre-existing to this tenancy. Finally, I have reviewed the receipt submitted into documentary evidence by the Landlords to support this portion of their claim and noted that this receipt is for parts only and offers no description as to what was wrong with the lawnmower. Consequently, I find that there is insufficient evidence before me to prove to my satisfaction that this claimed amount for lawn mower repair was due to damage caused by the Tenants during their tenancy. In the absence of sufficient proof that the Tenant's caused this claimed damage, I must dismiss this portion of the Landlords claim in its entirety.

The Landlords have also claimed for \$240.00 for 12 hours of their time to clean the rental unit at the cost of \$20.00 per hour. Section 37(2) of the *Act* states the following regarding the conditional of the rental unit at the end of a tenancy:

***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*
- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property.*

After reviewing the Landlords picture evidence, I find that these pictures show that the Tenants returned the rental unit to the Landlords in an unclean state. Therefore, I find that the Tenants were in breach of section 37(2) of the *Act* when they returned this rental unit to the Landlords uncleaned. I also find that the Landlords have provided sufficient evidence to prove the value of this loss and that they took reasonable steps to minimize the losses due to the Tenant's breach by cleaning the rental unit themselves. Therefore, I award the Landlords their requested cleaning costs in the amount of **\$240.00**.

As for the Landlords claim for the recovery of their cost in the amount of \$240.46 to replace damaged curtains. I have reviewed the picture of the damaged curtains, and I noted that the picture shows damage to one panel of a two-panel curtain set, and I find that on a balance of probabilities, this damage did occur during this tenancy and that the Tenants breached section 37 of the *Act* when they returned the rental unit to the Landlords with a damaged curtain.

However, the Landlords, in this case, have submitted a claim for four new panel curtains. I have reviewed the Landlords' testimony, and I noted that the Landlords offered no explanation as to why they were claiming for four new panels of curtains and not just the one that was depicted as damaged in their photo evidence. Additionally, I noted that the Landlords had submitted only a quote for the costs they are claiming for and not the actual costs that they paid to have this one panel repaired or replaced.

On this point of the Landlords claim, I find that the Landlords have not provided sufficient evidence to prove the value of this loss, nor have they shown that they took reasonable steps to minimize the losses due to the Tenant's breach by either repairing the damaged curtain or by claiming for the replacement cost of the one damaged curtain panel. Therefore, I decline to award the Landlords their requested costs to purchase four new curtain panels for this rental unit, and I dismiss this portion of the Landlords' claim in its entirety.

Finally, section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlords have been partially successful in their application, I find that they are entitled to the recovery of their **\$100.00** filing fee for this application.

Overall, I award the Landlords \$340.00, consisting of \$240.00 in cleaning cost and \$100.00 in the recovery of their filing fee for this application. I grant permission to the Landlords to retain \$340.00 of the security deposit for this tenancy in full satisfaction of this award.

I order the Landlords to return the remaining value of the security and pet damage deposits that they are holding for this tenancy, in the amount of \$1,660.00, to the Tenants within 15 days of the date of this decision.

Additionally, I grant the Tenants a conditional monetary order in the amount of \$1,660.00 to be served on the Landlords in the event that they do not comply as ordered.



Conclusion

I find that the Landlords breached sections 23, 35 and 38 of the *Act* during this tenancy.

I find that the value of the security and pet damage deposits paid for this tenancy have doubled in value due to the Landlords' breach of sections 38 of the *Act*.

I grant the Landlords permission to retain \$340.00 of the security deposit for this tenancy in full satisfaction of the awards contained in this decision.

I order the Landlords to return the remaining security and pet damage deposits in the amount of \$1,660.00 to the Tenants within 15 days of the date of this decision.

I grant the Tenants a conditional **Monetary Order** in the amount of **\$1,660.00** for the return of their security deposit. The Tenants are provided with this Order in the above terms, and the Landlords must be served with this Order as soon as possible, should they not comply as ordered. Should the Landlords 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: December 15, 2021

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Residential Tenancy Branch