



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GJK Investments Inc  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDL-S, FFL

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damages to the unit - Section 67;
2. An Order to retain the security deposit - Section 38; and
3. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to retain the security deposit?

Is the Landlord entitled to recovery of the filing fee?

### Background and Evidence

The following are agreed or undisputed facts: the tenancy under written agreement started on February 1, 2019 and ended on July 1, 2021. During the tenancy rent of \$1,600.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$800.00 as a security deposit. The Tenants provided their forwarding address by registered mail on July 7, 2021, and the Landlord received that forwarding address. No move-in condition inspection was offered by the Landlord.

The Landlord states that at move-out the Tenant participated in a partial inspection of the unit and left after a disagreement on damages. The Landlord states that the Landlord later returned and completed the inspection of a bedroom, bathroom and office. The Landlord provides a copy of the inspection report and photos of the unit.

The Tenant states that they did not leave until the inspection of entire unit was completed. The Tenant states that at no time during the inspection did the Landlord offer or fill out an inspection report. The Tenant provides a witness statement of the move-out inspection.

The Landlord claims \$200.00 for repairs to poorly patched holes in the bedroom and living room walls. The Landlord provides photos and states that they provided a paid invoice for the costs of these repairs to the Residential Tenancy Branch and the Tenant. The Landlord also states that the Landlord did not yet get an invoice for the repairs. The Tenant states that they patched and sanded the holes and that they were left fine.

The Landlord states that the Tenants left doors damaged and claims \$110.00 for the repairs. The Landlord states that the bathroom door had a spill on it, there was a scuff on the laundry door and the office doors had small nails left that could be the picture hanging type. The Landlord states that the doors were last painted on October 12, 2018. The Landlord provides an invoice for the repair of 3 doors that does not include repairs to a laundry door. The Tenant states that they received a copy of an invoice for work to the doors for \$127.05. The Tenant states that they left no damage to the laundry room door and that the nails on the office were inadvertently left but could be removed easily with fingers.

The Landlord states that the Tenants failed to leave the master bedroom floor and the inside of the oven clean. The Landlord states that the Tenants also left the walls unclean. The Landlord provides black and white photos of the walls. The Tenants state

that they left the unit clean and that they had a professional cleaner do the work on June 30, 2021. The Tenant provides a copy of the invoice and a witness letter from the cleaner.

The Landlord states that the Tenants left a microwave door with a dent on the exterior. The Landlord states that the door and oven both function. The Landlord states that although the Landlord was told that replacing the microwave would be less costly than replacing the door, the Landlord chose to obtain the door in order to keep the appliances matched. The Landlord claims \$605.00. The Landlord states that an invoice for this cost was provided to both the RTB and the Tenants. The Tenant states that they accidentally hit their head on the microwave door and immediately had it repairs for a cost of \$200.00. The Tenant argues that they should not have to pay the costs claimed for a cosmetic dent.

### Analysis

Section 37 of the Act provides 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. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed and that costs for the damage or loss have been incurred or established.

As the Landlord did not provide a copy of a paid invoice for the wall repair costs claimed I find that the Landlord has not substantiated the costs claimed and I dismiss this claim for \$200.00.

Given the Landlord's photos and undisputed evidence of damage to the bathroom and office doors and given the invoice for repair costs to these doors, I find on a balance of

probabilities that the Landlord has substantiated the claim to **\$110.00** for the repair of the doors.

The Landlord has provided photos showing a minor cleaning miss in the fridge and a dust ball on a floor. There is no photo of an unclean stove or oven. The Landlord also provides photos of walls, some of which are noted by the Landlord to have been cleaned by the Landlord. I cannot determine any unclean walls from the Landlord's photos other than the photos of wall areas directly above the heater. These photos appear to show that the wall discoloration more likely arose from the operation of the heater directly below these areas. The Landlord's cleaning invoice does not set out any details of wall washing. For these reasons and given the Tenant's supported evidence of cleaning the unit at the end of the tenancy I consider that the Landlord has not substantiated the cleaning costs claimed and I dismiss the claim for \$200.00.

The Landlord's evidence is that no costs have been incurred to repair the microwave door. Further the Landlord's evidence is that the repair to the door was more costly than the replacement of the entire microwave. Finally, it is apparent from both Parties' photos that the small dent on the door is merely cosmetic in nature. For these reasons I find that the Landlord has neither taken reasonable steps to mitigate the repair costs and has not shown that the costs claimed were incurred. I therefore dismiss the claim for \$605.00 to repair the microwave door.

As the Landlord's claims have met with minor success, I find that the Landlord is only entitled to recovery of half the filing fee in the amount of **\$50.00** for a total entitlement of **\$160.00**.

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a landlord fails to comply with this section,

the landlord must pay the tenant double the amount of the security deposit. Policy Guideline #17 provides that return of double the deposit will be ordered if the landlord has claimed against the deposit for damage to the rental unit and the landlord's right to make such a claim has been extinguished under the Act. Section 24(2) of the Act provides that 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.

Based on the undisputed evidence that no move-in inspection was conducted I find that the Landlord's right to claim against the security deposit was extinguished at move-in and that the Landlord could not therefore make a claim for its retention but was required to return the deposit to the Tenants. As the Landlord received the Tenants' forwarding address and did not return the security deposit to the Tenants, I find that the Landlord must now pay the Tenants double the security deposit plus zero interest of **\$1,600.00**. Deducting the Landlord's entitlement of **\$160.00** leaves **\$1,440.00** owed to the Tenants.

### Conclusion

I grant the Tenants an order under Section 67 of the Act for **\$1,440.00**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: February 09, 2022

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Residential Tenancy Branch