



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Municipal Affairs

## **DECISION**

Dispute Codes      For the Landlord: MNDL-S, LRSD, FFL  
For the Tenants: MNSDS-DR

### Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear a cross application regarding the above-noted tenancy.

The landlord's application pursuant to the Act is for:

- a monetary order for compensation for damage and loss under the Act, the Regulation or tenancy agreement under section 67 of the Act;
- an authorization to retain the security deposit (the Deposit), under section 38 of the Act; and
- an authorization to recover the filing fee, under section 72 of the Act.

The tenants' application pursuant to the Act for an order for the landlord to return the Deposit, under section 38 of the Act.

Landlord JW (the Landlord) and tenants YS and JG attended the hearing. YS and JG represented SC and JH. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The parties each confirmed receipt of the notice of dispute resolution application and evidence (the materials) and that they had enough time to review them.

Based on the testimonies I find that each party was served with the respective materials in accordance with section 89(1) of the Act.

### Named Tenants

The Landlord's application names respondents tenants JH and YS. The Tenants' application names applicants tenants JH, YS, SC and JG.

The tenancy agreement submitted into evidence is dated April 2023 and names tenants JH and YS.

Both parties agreed their claims are only related to the April 2023 tenancy agreement.

Pursuant to section 64(3)(a) of the Act, I have amended the tenants' application to exclude SC and JG, as they are not tenants in the April 2023 agreement.

Hereinafter I will refer to tenant YS as the Tenant, and collectively to YS and JH as the Tenants.

### Issues to be Decided

Is the Landlord entitled to:

1. a monetary award for compensation for damages caused by the Tenants?
2. an authorization to retain the balance of the Deposit?
3. an authorization to recover the filing fee?

Are the Tenants entitled to an order for the Landlord to return the Deposit?

### Background and Evidence

While I have turned my mind to the evidence and the testimony of the attending parties, not all details of the submissions and arguments are reproduced here. The relevant and important aspects of the claims and my findings are set out below.

Both parties agreed the tenancy started in 2023 and ended on June 30, 2024. Monthly rent when the tenancy ended was \$5,040.00, due on the first day of the month. The Landlord collected the Deposit in the amount of \$2,500.00 and a furniture deposit in the amount of \$1,000.00, totalling \$3,500.00. The Tenants authorized the Landlord to retain \$2,588.88 in writing and the Landlord retains today \$911.12.

The April 2023 agreement was a fixed-term tenancy from August 1, 2023 to July 31, 2024.

The Tenants served and the Landlord received the forwarding address on August 28, 2024 via email. The Landlord applied for dispute resolution on October 7, 2024 and the Tenants on October 4.

The Landlord affirmed that when the tenancy started he conducted an inspection and sent the inspection report to the Tenants via email on June 6, 2024 asking them to sign it, but they never returned the move in inspection report.

The Tenant stated there was no inspection report when the tenancy started and the email sent by the Landlord contained a blank inspection report.

The Landlord testified when the tenancy ended they conducted a move out inspection, but he did not complete the move out inspection report because he never received the move in inspection from the Tenants when the tenancy started.

The Tenant said the parties did not complete a move out inspection report.

The Landlord is seeking \$2,520.00, as the Tenants moved out before the end of the fixed-term tenancy and did not pay July 2024 rent. The Tenants agreed to pay this amount and authorized the Landlord in writing to deduct it from the Deposit when the tenancy ended.

The Landlord is seeking \$68.88, as the Tenants did not pay electricity bills. The Tenants agreed to pay this amount and authorized the Landlord in writing to deduct it from the Deposit when the tenancy ended.

The Tenant emailed the Landlord on August 18, 2024: "The total bill I have calculated is \$2,588.88 and the deposit is \$3,500.00 [redacted] has paid her July rent of \$647.22 to me so the total money that we need back from you is \$911.12". The amount of \$2,588.88 is for July 2024 rent and the electricity bills.

The Landlord is seeking \$1,500.00, as the Tenants damaged the bathroom cabinet. The Landlord affirmed the Tenants are responsible for water leaking under the kitchen, he asked them to repair it, but they did not, and the cabinet was damaged. The Landlord

stated he obtained a verbal quote for the amount claimed and submitted 10 photographs showing cabinet damage.

The Tenant testified she is not responsible for the cabinet damage.

The Landlord is seeking \$300.00, as the Tenants did not clean the lint from the dryer. The Landlord worries that the dryer's useful life will be reduced because of this and estimates that the reduction in the dryer's useful life is worth the amount claimed. The dryer has been working properly.

The Landlord is seeking \$100.00, as the Tenants did not clean the refrigerator door, kitchen countertop and range. The Landlord said he paid the amount claimed for 3.5 hours of cleaning. The Landlord submitted two photographs showing the dirty areas of the unit.

The Tenant affirmed the areas mentioned could be cleaned in one hour.

The Landlord is seeking \$100.00, as the Tenants damaged the curtains strings in the two bedrooms and the living room. The Landlord stated he obtained a verbal quote for the amount claimed. The Landlord submitted 5 photographs showing curtain strings.

The parties confirmed they had enough time to make their submissions.

### Analysis

Pursuant to Rule of Procedure 6.6, 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 the 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 the tenancy agreement, the non-complying party must compensate the other party for damage or loss that results, and whoever claims compensation must minimize the losses.

Policy Guideline 16 sets out the criteria which are to be applied when determining whether compensation for a breach of the Act or the tenancy agreement is due. It states the applicant has to prove the respondent failed to comply with the Act or the agreement, the applicant suffered a loss resulting from the respondent's non-

compliance, and the applicant proves the amount of the loss, and reasonably minimized the loss suffered.

The Landlord had a tenancy with both Tenants. As explained in policy guideline 13, co-tenants are jointly and severally responsible for their obligations:

There may be more than one tenant; co-tenants are two or more tenants who rent the same rental unit or site under the same tenancy agreement. Generally, co-tenants have equal rights under their agreement and are jointly and severally responsible for meeting its terms, unless the tenancy agreement states otherwise. "Jointly and severally" means that all co-tenants are responsible, both as one group and as individuals, for complying with the terms of the tenancy agreement.

### Deposit

I accept the uncontested testimony the Landlord received the \$2,500.00 Deposit and the \$1,000.00 furniture deposit.

Section 19(1) of the Act states: "A landlord must not require or accept either a security deposit or a pet damage deposit that is greater than the equivalent of 1/2 of one month's rent payable under the tenancy agreement."

I caution the Landlord to not receive a furniture deposit anymore, as landlords are not authorized to do so under the Act.

Section 38(1) of the Act requires landlords to either return the tenant's deposits in full or file for dispute resolution for authorization to retain the deposit 15 days after the later of the end of a tenancy or upon receipt of the tenant's forwarding address in writing.

I accept the uncontested testimony that the tenancy ended on June 30, 2024, the fixed-term end date was July 31, the Tenants served their forwarding address in writing on August 28 and the Landlord received it on that day.

Based on the Tenant's testimony and the email dated August 18, 2024, I find the Tenants authorized the Landlord in writing on August 18 to retain \$2,588.00 from the Deposit and furniture deposit, which combined equal \$3,500.00.

The furniture deposit is not subject to section 38(1) of the Act, as that section relates only to security and pet damage deposits.

Policy Guideline 17 explains about the return of security deposits:

The landlord has 15 days, from the later of the day the tenancy ends or the date the landlord receives the tenant's forwarding address in writing to return the security deposit plus interest to the tenant, reach written agreement with the tenant to keep some or all of the security deposit, or make an application for dispute resolution claiming against the deposit.

As the Tenants authorized the Landlord in writing to retain an amount that is higher than the Deposit prior to the date they served their forwarding address, the Tenants are not authorized to receive the return of the Deposit.

Thus, I dismiss the Tenants' claim for an order for the return of the Deposit.

#### July 2024 rent and Electricity Bills

As explained in the heading 'Deposit', the Tenants authorized the Landlord in writing on August 18, 2024 to retain the amounts requested by the Landlord for the July 2024 rent and the Electricity Bills.

Thus, it is not necessary to order the Tenants to pay this amount, as the Tenants authorized the Landlord in writing to deduct this amount from the Deposit and the furniture deposit prior to the date the Landlord submitted his application for dispute resolution.

As such, I dismiss these claims.

#### Cabinet

Section 32(3) of the Act states that a tenant 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.

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.

The 10 photographs submitted show minor cabinet damage. I find this damage is wear and tear.

Furthermore, the Landlord did not submit an invoice, quote or any document to prove the alleged amount of the loss.

I find the Landlord's testimony does not explain why he would need to spend \$1,500.00 to repair the bathroom cabinet.

Thus, I find the Landlord failed to prove the Tenants breached the Act or that he suffered the loss claimed.

I dismiss the claim.

### Dryer

The Landlord admits the dryer is working properly and assumes that the alleged inadequate usage of the dryer will reduce its useful life.

Landlords must prove the Tenants breached the Act to obtain compensation. I find the Landlord's 'worries' do not constitute a breach of the Act, as the dryer has been working properly.

I dismiss the claim.

### Cleaning

Section 37(2)(a) of the Act states the tenant must reasonably clean the rental unit when the tenancy ends.

I accepted the uncontested testimony the Tenants did not clean the refrigerator door, kitchen countertop and range.

Based on the undisputed testimony and the photographs, I find the Landlord proved he suffered a loss because the Tenants breached section 37(2)(a) of the Act by failing to reasonably clean the unit when the tenancy ended.

Based on the photographs, I find it reasonable to award 2 hours of cleaning at the reasonable rate of \$35.00 per hour.

Thus, I award the Landlord \$70.00 for cleaning.

#### Windows Coverings

Based on the Landlord's testimony, I find the Landlord failed to prove the Tenants breached the Act. The photographs do not show damaged curtain strings.

Furthermore, I find the Landlord's testimony about the alleged quote vague.

I dismiss the claim.

#### Filing Fee and Summary

As the Landlord was partially successful, I find that the Landlord is entitled to recover the \$100.00 filing fee.

In summary, I award the Landlord \$170.00 for cleaning expenses and the filing fee.

As the Landlord currently holds \$911.12 from the balance of the furniture deposit, I authorize the Landlord to retain \$170.00 and order the Landlord to return the balance of \$741.12.

Thus, I award the Tenants \$741.12.

#### Conclusion

Per section 72 of the Act, I award the Tenants \$741.12.

The Tenants are provided with this order in the above terms and the Landlord must be served with this order in accordance with section 88 of the Act. Should the Landlord 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 Act.

Dated: December 13, 2024

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Residential Tenancy Branch