



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNDC, MNSD, FF

### Introduction

This hearing dealt with applications by both the landlord and the tenants. The landlord applied for a monetary order for damage to the unit; to retain all or part of the security deposit; and to recover the RTB filing fee. The tenants applied for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement; for the return of their security and pet deposits; and to recover their RTB filing fee.

Both the landlord and tenants attended the teleconference hearing and gave affirmed evidence.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for damage to the unit?

Are the tenants entitled to money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement?

Given the answers to the above questions, what should be the disposition of the security and pet deposits?

### Background and Evidence

The tenancy agreement signed by the parties on June 16, 2013 and July 15, 2013 indicates the tenancy started September 1, 2013 and was for a one-year fixed term. The tenants were obligated to pay rent of \$2,100.00 monthly in advance on the first day of the month. The tenants paid a security deposit of \$1,050.00 and a pet deposit of \$525.00.

The tenants moved out effective May 31, 2014 pursuant to a Mutual Agreement to End Tenancy.

The landlord seeks compensation as follows:

Dirty curtains	60.00	
Scratched stainless steel appliances	1,000.00	
Damaged living room floor	800.00	
Damage to closet shelf	45.00	
Furnace cleaning estimate and carpets	544.00	
<i>Total claim:</i>	<i>2,449.00</i>	

The landlord gave evidence that four new full-length curtains were covered with dog hair and slobber after the tenancy. He has thrown them away and intends to replace them. He claims \$60.00 toward the cost of replacement. The tenants gave evidence that their dog did not go near the windows, and so did not damage the curtains.

The landlord gave evidence that the stainless steel stove, microwave, and dishwasher were 3.5 to 4 years old at the start of the tenancy (the rental unit was brand new 3.5 to 4 years ago). His evidence is that at the end of the tenancy, they were scratched as though someone had cleaned them using an abrasive surface. He provided photographs of the stove which clearly show scratch marks of the type that would be caused by scrubbing the surface with an abrasive material such as steel wool. His evidence is that the stove cost about \$1,400.00.

The tenants deny that they caused scratches to the appliances. They provided photos in which scratches cannot be seen.

The landlord gave evidence that the tenants caused damage to the laminate floors. He said he went to the unit at the end of May and observed that a cleaner hired by the tenants had poured water on the laminate floors. He said he immediately told the tenants that laminate floors cannot withstand that much water. The landlord provided photographs which show laminate floors with some raised areas along the seams; he says the floors have become worse since he took the photos. The landlord gave evidence that it would cost about \$2,000.00 to replace the entire floor but he might be able to simply replace some pieces of flooring if he can find enough new matching pieces.

The tenants gave evidence that they cleaned the floors themselves and did not pour water on them. They note that the move-in condition inspection report indicates the floors had some scratches on them at the beginning of the tenancy.

The landlord gave evidence that the furnace and carpets required cleaning because the tenants had a dog. He provided an estimate for air duct cleaning and furnace tune-up at \$399.00 and carpet cleaning at \$145.00.

The tenants seek compensation in the form of retroactive rent reductions of \$700.00 per month for each of the 10 months of their tenancy. The tenants also seek moving expenses of \$800.00 and unpaid utilities of \$32.71. The landlord agrees to the unpaid utilities claim.

The tenants' claim for retroactive rent reductions is based on their assertions that the landlord did not let them use the backyard or balcony, and did not do certain repairs he promised to do. The tenants' evidence is that there is a long balcony off the living room and kitchen, but the landlord told them they could not let their dog out there. They also gave evidence the backyard was full of the landlord's possessions and so they could not use it.

The landlord's evidence is that the tenants allowed their dog to use the balcony as a toilet and then hosed off the balcony allowing the dirty water to fall through the balcony so that it fell in front of the landlord's front door below. He told them not to allow their dog to use the balcony as a toilet. The landlord also says he gave the tenants full permission to use the front and back yards, however the tenants did not pick up their dog's feces promptly. The landlord's evidence is that he told the tenants not to bring the dog into the backyard unless they picked up after it.

The tenants gave evidence that the landlord agreed to replace the electric stove with a gas one. He then put the new gas stove in the garage rather than the kitchen. The tenants say they could not use it because it was too cold there. The tenants gave evidence that the garage was included in their rental. They say they told the landlord he could keep his things in the garage for one month, but he kept them there for 4 or 5 months.

The landlord's evidence is that the tenants agreed the gas stove could be installed in the garage. He says he bought one gas stove that was too wide to fit between the installed cabinetry. He then bought another gas stove but the tenants did not like it. He could have installed the wider one by the fireplace but the tenants did not want it there, so they agreed he would install the wider one in the garage.

The landlord also gave evidence that he kept his things in the garage for less than two months, and they only took up one-third of the space leaving enough room for all of the tenant's items.

The tenants claim moving expenses on the basis that the landlord forced them to sign the Mutual Agreement to End Tenancy. They say the landlord told them two of his friends would be moving in downstairs and their dogs would eat the tenant's dog.

The landlord gave evidence that the tenants approached him to end the tenancy early because they could not afford the rent. The agreement calls for the tenants to pay reduced rent for the last month of tenancy and the landlord's evidence is that the tenants told him if he didn't accept that then they wouldn't pay anything.

### Analysis

The parties gave contradictory evidence in some areas. On the whole, I found the landlord to be a more credible witness. He clearly made an effort to give as balanced and fair an account as possible, and his evidence was more plausible in many respects.

I accept the landlord's evidence that the curtains were left dirty because of the tenant's dog; I find it unlikely that any dog would not go near the windows. The landlord has proven he suffered a loss but has not proven the cost of cleaning or replacing the curtains. I find the landlord is entitled to nominal compensation and I accept his claim that \$60.00 is a reasonable amount.

I accept the landlord's evidence that the stainless steel stove, microwave, and dishwasher were significantly scratched during the tenancy (although the scratches cannot be seen from certain angles as in the tenants' photos). The appliances are still functional but their appearance has been noticeably marred and this is especially significant in a relatively new rental unit.

According to Residential Tenancy Policy Guideline 40 "Useful Life of Building Elements", a stove has a useful life of 15 years and a microwave and dishwasher each have a useful life of 10 years. I estimate the appliances were almost five years old at the end of the tenancy. I find the landlord has proven that the tenants damaged the stainless steel appliances and he has suffered a loss as a consequence. It would not be reasonable to expect him to replace appliances that have many years of useful life left. However, the decreased value of the appliances (and therefore the kitchen as a

whole) entitles the landlord to some nominal compensation. I set that amount at \$500.00.

I accept the landlord's evidence that the tenants caused water damage to the laminate flooring. The landlord has not provided enough evidence to determine how much the damage will reasonably cost him. However, I find he is entitled to some nominal compensation. Assuming the landlord can replace only some boards and considering the amount of labour involved, I set that amount at \$1,000.00.

I accept the evidence of both parties that the tenant cut a piece out of a closet shelf; I accept the landlord's evidence that the landlord did not agree to this. I accept the landlord's estimate that a new shelf will cost him about \$45.00 and I find he is entitled to that amount of compensation.

According to Residential Tenancy Policy Guideline 1 "Landlord & Tenant – Responsibility for Residential Premises", a tenant is expected to steam clean carpets if they had a pet. However, that Guideline indicates the landlord is responsible for servicing the furnace including cleaning heating ducts. I find the landlord is entitled to compensation of \$145.00 for carpet cleaning, but I dismiss his claim for furnace cleaning.

The total amount due the landlord from the tenants is \$1,750.00. At issue is whether there are off-setting amounts due the tenants from the landlord.

I find the tenants suffered no loss of quiet enjoyment that might entitle them to a retroactive rent reduction. I find the landlord's concerns about the tenants' dog's toileting routine were reasonable. As well, I find the parties agreed with the installation of the gas stove in the garage and the landlord's temporary use of part of the garage.

I accept the landlord's evidence that it was the tenants who proposed the early end to their tenancy. I find there was no duress involved in the signing of the Mutual Agreement to End Tenancy. The Mutual Agreement is therefore a valid agreement and the tenants are not entitled to their moving expenses.

The total amount due the tenants from the landlord is \$32.71 for unpaid utilities. Setting this off against the amount due the landlord results in a net amount due the landlord of \$1,717.29. I order that the landlord retain the security deposit of \$1,050.00 and pet deposit of \$525.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$142.29. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order for \$142.29. The landlord may also retain the security deposit and pet deposit.

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: October 02, 2014

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Residential Tenancy Branch

