



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCL-S, MNDL-S, FFL

### Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “*Act*”) for monetary compensation for unpaid rent, monetary compensation for damages, to retain the security deposit and pet damage deposit towards compensation owed, and for the recovery of the filing fee paid for the Application for Dispute Resolution.

The Landlord and both Tenants were present for the duration of the teleconference hearing. The Tenants confirmed receipt of the Notice of Dispute Resolution Proceeding package and the Landlord’s evidence by registered mail. The Landlord confirmed that a copy of the Tenants’ evidence was provided to him in person. As such, I find that both parties were duly served in accordance with Sections 88 and 89 of the *Act*.

The parties were affirmed to be truthful in their testimony and were provided with the opportunity to present evidence, make submissions and question the other party.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch 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

Is the Landlord entitled to monetary compensation for unpaid rent?

Is the Landlord entitled to monetary compensation for damages?

Should the Landlord be allowed to retain the security deposit and pet damage deposit towards compensation owed?

Should the Landlord be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

### Background and Evidence

The parties were in agreement with the details of the tenancy, which were also confirmed by the tenancy agreement that was submitted into evidence. The tenancy began on November 1, 2016. Monthly rent was \$2,000.00, due on the first day of each month. A security deposit of \$1,000.00 and a pet damage deposit of \$300.00 was paid at the outset of the tenancy. The Tenants moved out on July 4, 2018.

The Landlord confirmed that he is still in possession of the full security and pet damage deposit amounts. Although the parties talked about the damages during the move-out inspection, the Tenants did not provide permission in writing for the Landlord to withhold a specific amount for any damages.

The parties were unsure of the exact date the forwarding address was provided in writing, although they agreed it was on or around July 17, 2018 when the Tenants provided the Landlord with a letter in person. The Tenants stated that they first provided their forwarding address through text or email, but when they realized it needed to be in writing, they provided the Landlord with a letter.

The Landlord has claimed a total of \$631.80 for damages caused during the tenancy. He provided testimony that this is due to the cost to repair damage to two doors, a doorframe, window blinds and two planter pots that were missing at the end of the tenancy.

The Landlord submitted that the cost to replace and repair the doors was \$225.75, while the supplies for the repairs were \$168.45. He stated that the master bedroom door was damaged and there was a hole in another door in the rental unit. He also noted damage to the frame around one of the doors. Five photos of the doors and a doorframe were submitted into evidence.

The Landlord submitted an invoice for the door repair in the amount of \$225.75, a receipt for the new doorframe and door in the amount of \$126.56, and a receipt for the trim around the door for an amount of \$41.89.

The Landlord testified that there were two flower planters left at the home that were missing at the end of the tenancy. The Landlord submitted a photo of the two planters into evidence, as well as a photo of the planter in the store showing the price. The Landlord also submitted a receipt into evidence for the purchase of the two new planters in the amount of \$62.68.

The Landlord submitted an invoice from a construction company dated July 12, 2018, for \$225.75. The invoice indicated that the master bedroom door was replaced for the cost of \$165.00 plus \$50.00 for the basement door repair, plus GST.

For the window coverings, the Landlord submitted a receipt dated July 5, 2018 in the amount of \$175.75 for the cost of purchasing new curtains and curtain rods. The Landlord stated that these were purchased to replace missing and broken blinds on two windows.

The Landlord provided testimony that he was not sure of the age of the blinds as they were not new when he purchased the home approximately 8 months prior to the Tenants moving in. He submitted 3 photos of the damaged blinds that he stated were taken down during the tenancy. Both parties submitted into evidence an email exchange in which they discussed replacement of the blinds. They did not come to an agreement on the replacement costs during this exchange.

The Landlord was aware that the blinds were damaged and taken down during the tenancy and stated that the Tenants had advised him that when they moved out they would leave curtain rods and curtains that they had purchased to replace the blinds.

However, the Landlord testified that the Tenants took the curtains with them when they moved out and that the curtain rods left behind were bent. The Landlord submitted photos of the curtain rods left behind on the two windows where the blinds were damaged. To save costs, the Landlord stated that he purchased new curtains and rods, instead of having new blinds installed.

The parties were in agreement that they were both present at the move-in and move-out inspection. The Condition Inspection Report was submitted into evidence and although unsigned, the parties were in agreement with the contents of the report.

The Tenants stated that they agree to the damage claims of the Landlord, but do not agree to the amount claimed by the Landlord for the repairs and replacement costs. They stated that they provided information to the Landlord on used blinds and used doors that they were able to find for sale locally. They provided testimony that a used door could be found for around \$30.00.

The Tenants stated their belief that they should not be responsible for the cost of providing the Landlord with a brand-new door or new window coverings, as they were not new at the start of the tenancy. The Tenants stated that the blinds were likely more than 20 years old due to their condition.

The Tenants also stated that they did not think the entire doorframe needed replacing, as the damage on the frame would have allowed for a repair, instead of replacement. The Landlord responded that the contractor completing the work recommended a full replacement of the doorframe. Neither party presented any testimony or evidence on the age of the doors or doorframe in question.

The Tenants agreed that the two planters were at the home when they moved in. The planters were missing at the end of the tenancy, although the Tenants were unsure what had happened to them. The Tenants did not dispute the amount claimed by the Landlord for replacement of the planters.

The Landlord had initially claimed compensation for half a month's rent in the amount of \$1,000.00 but had also claimed for four days of rent in the amount of \$258.00, which was added into his total claim on the Application for Dispute Resolution.

The Tenants gave notice on June 2, 2018 that they would be moving out on July 2, 2018. The Landlord included in evidence the letter from the Tenants dated June 2, 2018 in which they inform him that they will be moving out on July 2, 2018. The Tenants ended up moving out on July 4, 2018.

The Landlord accepted the notice from the Tenants and stated that it was not until later that he realized notice on June 2<sup>nd</sup> would end the tenancy at the end of July 2018. At

the time the notice was provided by the Tenants, both parties were in agreement that any rent owing for July 2018 was not discussed.

The Landlord began advertising the rental unit for re-rental right away after receiving notice from the Tenants. As the Tenants were planning to move out on July 2, 2018, the Landlord sought new tenants for July 15, 2018 which he was able to find. He also noted that between July 4<sup>th</sup> and July 15<sup>th</sup>, the repairs were being completed in the rental unit.

The Tenants submitted that the Landlord accepted their notice to move out on July 2, 2018 and there was no discussion of additional payments towards rent. They were in agreement that they stayed 2 days longer than anticipated and moved out on July 4, 2018. They stated that had they known the Landlord would charge them rent from July 1 to July 15, 2018, they would have made arrangements to ensure they were moved out earlier.

The parties discussed a settlement agreement but were unable to come to an agreement.

### Analysis

Based on the testimony and evidence of both parties, and on a balance of probabilities, I find as follows regarding each of the claims of the Landlord:

**Security deposit and pet damage deposit:** I refer to Section 38(1) of the *Act* which states that a landlord has 15 days from the later of the date the tenancy ends or the date the forwarding address is provided in writing to return the deposits or file a claim against them.

The tenancy ended on July 4, 2018 and although the forwarding address was provided earlier by text or email, it was provided in a letter on or around July 17, 2018. As the Landlord applied for Dispute Resolution on July 16, 2018, I find that he applied within the timeframe allowable and therefore was in compliance with Section 38(1) of the *Act*. Any monetary amount found to be owing to the Landlord may be kept from the deposits.

**Doors and doorframe:** The Tenants were in agreement that there was damage to the doors and the doorframe, but questioned the amount paid by the Landlord to have the repairs and/or replacements completed. The Landlord has claimed a total of \$394.20 for the cost of supplies and labour to repair the doors.

In accordance with Section 7(1) when a party does not comply with the *Act*, they must compensate the other party for any losses that occur as a result. The Tenants agreed the doors were damaged during the tenancy. As such, I find that they were in breach of Section 37 of the *Act* which states that the rental unit must be left clean and undamaged, other than reasonable wear and tear.

As stated in Section 7(2), a party claiming a loss must do what is reasonable to minimize that loss. The bill for the repair work in the amount of \$225.75 was to install a new door in the master bedroom, repair the basement door and replace the doorframe. I find these costs to be reasonable regardless of whether a new or used door or doorframe were being installed.

However, I find that the Landlord could have taken steps to minimize his losses by purchasing a used door and other supplies. I also accept the testimony of the Tenants that they were willing to pay for the cost of purchasing a used door. Therefore, I award the Landlord \$225.75 for the completion of the repairs, and a nominal amount of \$50.00 for the door and doorframe supplies for a total of \$275.75.

**Planters:** As the parties were in agreement that the 2 planters were missing at the end of the tenancy, I find that the Landlord is owed compensation for his loss in purchasing new planters. The Tenants did not dispute the replacement cost of the planters.

I find that the amount of \$62.60 claimed by the Landlord is reasonable and accept that the planters were almost new at the beginning of the tenancy. I find it would have been difficult to try to replace the planters for a cost lower than what the Landlord has claimed. Therefore, I find that the Landlord is entitled to compensation for the planters in the amount of \$62.60.

**Window coverings:** Again, the parties were in agreement that the blinds were damaged and taken down during the tenancy. I also find that the Landlord took steps to minimize his loss by purchasing curtains as replacement for the blinds.

However, the Landlord was unsure of the age of the blinds as they were not new when the home was purchased the year before the Tenants moved in. The Tenants stated their belief that the blinds were quite old. I refer to *Residential Tenancy Policy Guideline 40: Useful Life of Building Elements* which states that drapes and blinds have a useful life expectancy of 10 years.

I note that in accordance with rule 6.6 of the *Residential Tenancy Branch Rules of Procedure*, the onus to prove a claim, on a balance of probabilities, is on the party making the claim. As such, in this matter I find that the Landlord bears the burden to establish his claim. As the Tenants questioned the age of the blinds and the Landlord did not submit any documentary evidence to establish the age of the blinds, I find that I cannot determine whether they were still within their useful life expectancy when damaged. Therefore, I find that they may have been more than 10 years old and I decline to award any compensation for window coverings.

**Unpaid rent:** I accept the testimony of both parties that notice to end the tenancy was provided by the Tenants on June 2, 2018 to move out on July 2, 2018. The parties also agreed that the Landlord did not notify the Tenants that they would owe 2 days of rent for this period, or that notice on June 2, 2018 would end the tenancy on July 31, 2018 in accordance with Section 45 of the *Act*.

Regardless of whether a discussion took place regarding payment of half a month's rent or a full month's rent for July 2018, I find that it is reasonable for the Tenants to expect to pay for the time they were still in possession of the rental unit.

I decline to award half a month's rent as I find that the Landlord did not advise the Tenant's of this when he accepted their notice and also find that the Landlord was not clear through his application or during the hearing as to whether he was seeking half a month's rent or 4 days of rent. However, I do find that the Tenants should compensate the Landlord for the time they continued to reside in the rental unit; July 1-July 4, 2018. Calculated on a daily pro-rated basis, this amounts to \$258.00.

As the Landlord was partially successful in his application, I award the recovery of the filing fee in the amount of \$100.00, pursuant to Section 72 of the *Act*.

The Tenants are awarded a Monetary Order for the return of their security deposit and pet damage deposit, after deductions as outlined below:

Security deposit	\$1,000.00
Pet damage deposit	\$300.00
<i>Less door repair and supplies</i>	<i>(\$275.75)</i>
<i>Less planter replacement</i>	<i>(\$62.60)</i>
<i>Less July 1- July 4, 2018 rent</i>	<i>(\$258.00)</i>
<i>Less filing fee</i>	<i>(\$100.00)</i>
<b>Total owing to Tenants</b>	<b>\$603.65</b>

Conclusion

Pursuant to Sections 38, 67 and 72 of the *Act*, I grant the Tenants a **Monetary Order** in the amount of **\$603.65** for the return of the security deposit and pet damage deposit, after deductions for repairs, four days of rent, and the recovery of the filing fee. The Tenants are provided with this Order in the above terms and the Landlord must be served with **this Order** as soon as possible. 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 *Residential Tenancy Act*.

Dated: November 28, 2018

---

Residential Tenancy Branch