

# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **Decision**

**Dispute Codes:** MND MNSD FF

## **Introduction**

This matter dealt with an application by the landlord for a monetary order for damage to the rental unit, and an order to recover the filing fee for the cost of the application.

Both the landlord and the tenant appeared at the hearing and were afforded a full opportunity to present evidence. I also advised both parties that I would consider their testimony as well as their written submissions received prior to the hearing, in reaching my decision.

## **Issue(s) to be Decided**

Is the landlord entitled to a monetary order for damage, and if so in what amount?

## **Background and Evidence**

The evidence at the hearing is that the tenancy commenced on April 15, 2008 and ended on October 31, 2008. The monthly rent payable was \$1295.00 and a security deposit in the amount of \$642.50 was paid to the landlord on April 9, 2008.

The landlord has made claims for damages as follows:

- rug cleaning \$144.90
- lock re-keying \$199.25
- carpet replacement in the laundry room \$307.78

- tape \$15.68
- labour for carpet replacement \$200.00
- pick up dog feces in backyard \$75.00
- front window blind replacement and labour \$44.89
- cleaning of fridge, stove bathroom and kitchen \$80.00
- clean up of garbage \$20.00

In support of the landlord's claims, he has submitted a number of photographs which show the condition of the carpet which required cleaning, some dog feces in the yard, some dog hair and some items left in the rental unit. The landlord claims that the keys were not returned by the tenants and that the laundry room carpet was so damaged that it had to be replaced.

The evidence of the tenant is that she agrees with the claim for the carpet cleaning in the amount of \$144.90 but denies all other parts of the claim. The tenant states that she left the keys on the kitchen counter at the request of the landlord and that the unit was relatively clean when she left. She states that the blinds were already damaged when she moved in and that the laundry room carpet was just a piece of carpet loosely laid over wood and that it was already soiled.. In regards to the yard, the tenant claims that it was a mess when she moved in, and that it had engine parts and a toilet strewn about.

Both parties agree that there was no move-in inspection done, but the landlord claims he gave the tenant a form, which the tenant says she did not receive. There was no move-out inspection and the landlord says he phoned the tenant to try to arrange an inspection. The tenant denies that she was contacted to do an inspection.

### **Analysis**

The landlord has made a claim for compensation for damages in the amount of \$1085.50, which is a considerable sum. The onus lies clearly with the landlord to meet the burden of proof in this matter, which is the balance of probabilities.

The landlord also has certain obligations under the *Residential Tenancy Act* which he must fulfill if he is going to seek monetary compensation for damages. The landlord is obligated by legislation to carry out a written move-in inspection and to carry out a

written move-out inspection as well. The landlord has not provided any details of when he alleges that he contacted the tenant to offer a move out inspection, and the tenant denies that such an opportunity was granted. The failure of the landlord to carry out his obligations, leads to his right to make a claim against the security deposit being extinguished.

The use of inspections at the start and the end of the tenancy, are mandatory for a purpose, so that there is a written record signed by both parties and in most cases it avoids disputes where both parties disagree.

Although the landlord still has the right to pursue a monetary claim outside the security deposit, that claim must be proven. I note that one of the largest items claimed is the laundry room carpet, for which the landlord has failed to submit any photographs to substantiate the alleged condition. That is also true of many of the other segments of his claim.

The tenant admits her liability for the carpet cleaning but denies all other parts of the claim. There is no evidence before me as to the condition of the rental unit at the start of the tenancy, and it therefore makes it difficult to accept the landlord's claim. I find that the landlord has not met the burden of proof on his claim, other than the carpet cleaning, and I therefore dismiss the balance of the claim.

### **Conclusion**

I find that the landlord has established a claim for the carpet cleaning of \$144.90 and is also entitled to recover the filing fee of \$50.00 for a total of \$194.90. I order that the landlord may retain \$194.90 from the security deposit plus interest valued at \$649.11 and that the balance of \$454.21 be returned to the tenants within 15 days of receipt of this decision.

Dated: December 15, 2008