



# Dispute Resolution Services

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

## **DECISION AND REASONS**

**Dispute Codes:** *MNSD, MNR, MNDC, FF.*

### **Introduction**

This hearing dealt with applications by the tenant and the landlord, pursuant to the *Residential Tenancy Act*. The tenant applied for the return of his security deposit pursuant to Section 38 and the landlord applied to retain the security deposit in partial satisfaction of his claim for unpaid rent and cleaning pursuant to Section 67. The landlord also applied to recover the cost of filing the Application for Arbitration pursuant to Section 72. As per the landlord, the tenant “skipped” by moving out without advising the landlord. The landlord received a notice of hearing from the tenant on November 14, 2008 and filed his application on November 26, 2008.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

### **Issues to be decided**

Is the tenant entitled to the return of his security deposit?

Is the landlord entitled to a monetary order for damages to the rental unit and if so in what amount, the fee to file this application and to retain the security deposit in partial satisfaction of this claim?

### **Background and Evidence**

The tenancy started on October 01, 2008. Rent was set at \$1125.00 due in advance on the first of the month. The tenant paid a security deposit of \$562.50.00 on September 19, 2008. A move in inspection was conducted in the presence of the tenant and the suite was in a satisfactory condition. The tenant moved out on October 31, 2008 without giving the landlord notice to end tenancy.

The tenant stated that there was a series of water leaks in the apartment and he informed the landlord at the time of each leak. The landlord responded by sending in a

roofer, immediately or within a reasonable amount of time. The tenant expressed dissatisfaction with the job done by the roofers. The tenant also stated that there was mould in the ceiling and it was not a safe environment for him to live in. Hence he decided to move out and did so without giving the landlord a month's notice to end tenancy. The tenant submitted photographs into evidence to show the leaks and water being collected in a bucket. The tenant admitted that he had not cleaned the suite prior to moving out and that he owed \$55.04 for his hydro bill.

The landlord submitted into evidence a copy of the tenancy agreement which specifies that upon vacating the rental unit, the tenant is responsible for having the carpets and drapes professionally cleaned and for providing the landlord with a receipt to verify the same. The landlord has also provided photographs showing the condition of the suite after the tenant moved out and an outstanding utility bill in the tenant's name.

The landlord is claiming the following:

1.	One month notice to end tenancy	\$1125.00
2.	Carpet cleaning	\$140.00
3.	Cleaning of drapes	\$170.00
4.	Utility bill	\$55.04
5.	Three hours of cleaning	\$75.00
	Total	<b>\$1565.04</b>

### **Analysis**

Pursuant to section 45 of the *Residential Tenancy Act*, a tenant may end a tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month on which the tenancy is based, that rent is payable under the tenancy agreement. The tenant stated that he had reason to move out immediately due to the mould resulting from the leaks in the roof.

I find that the landlord responded to each complaint in a very timely manner and has provided evidence to corroborate the action he took to fix the leaking roof. Therefore, I find that the tenant did not have reason to move out without giving the landlord

adequate notice. Based on the sworn oral and written testimony of both parties, I find that the tenant failed to give the landlord notice to end the tenancy prior to moving out. Since he did not comply with Section 45, I find that he is required to pay rent for the month of November.

The tenant agreed that he left the suite in an unclean condition, did not clean the carpets or drapes and owes for utilities. Therefore, I find that the landlord has established his claim for all the above mentioned items and is also entitled to recover his filing fee of \$50.00, for a total of 1615.04.

I order that the landlord retain the security deposit and interest of \$564.09 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$1050.95. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### **Conclusion**

The tenant has not proved his case; hence his application for the return of his security deposit is dismissed.

I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of **\$1050.95**.

Dated December 08, 2008.

---

Dispute Resolution Officer