



# Dispute Resolution Services

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

## Decision

**Dispute Codes:** MNDC MNSD FF

## Introduction

This decision was amended on January 29, 2009 to correct an obvious error where I inadvertently referred to the Tenant when I meant to refer to the Landlord. The amendment, which is underlined, appears on the third line of the fifth page of this amended document.

This hearing dealt with cross applications between the two parties.

The Landlord made application to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution. It was apparent from the Landlord's application that she was seeking compensation for lost revenue, for damages done to the rental unit, and for property that was removed from the rental unit; and her application was amended to include an application for compensation for money owed or for damage or loss under the *Residential Tenancy Act (Act)*.

The Tenant made application for the return of his security deposit, and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution. The Tenant did not attend the hearing in support of his application and his application has

been dismissed without leave to reapply, as I will be making a determination on this matter on the basis of the Landlord's application.

The Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the address noted on the Application, on December 04, 2008. A tracking number was provided. The Canada Post website shows the mail was picked up on December 10, 2008. These documents are deemed to have been served in accordance with section 89 of the *Act*, however the Tenant did not appear at the hearing.

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

The issues to be decided are whether the Landlord is entitled to a monetary order for damage to the rental unit; to a monetary order for loss of rental income; to a monetary order for compensation for missing property; to retain all or part of the security deposit; and to recover the filing fee for the cost of this Application for Dispute Resolution.

### **Background and Evidence**

The Landlord stated that this tenancy began in 2006 and that it ended on October 31, 2008. The Landlord stated that the Tenant ended the tenancy by giving written notice, on October 07, 2008, of his intent to end the tenancy at the end of October. She stated that the Tenant did not provide her with his forwarding address until November 21, 2008, which is when she received the Tenant's Application for Dispute Resolution in the mail.

The Landlord stated that the Tenant paid a security deposit of \$180.00 on August 24, 2006. She stated that the Tenant broke a window sometime during the summer of 2007 and he authorized her to deduct \$10.00 from his security deposit to pay for the damage,

leaving a total security deposit of \$170.00. The Landlord stated that the Tenant paid an additional \$80.00 toward the security deposit on or about June 01, 2008, bringing the total security deposit to \$250.00.

The Landlord stated that the Tenant shared this rental unit with three other occupants, each of whom had a separate tenancy agreement with the Landlord. She stated that they shared common areas in the house but they had their own bedrooms.

The Landlord is seeking compensation for loss of revenue for the month of November, as the Tenant did not give one full month's notice of his intent to vacate the rental unit. The Landlord stated that she has not attempted to find new tenants for the rental unit as the home needs to be painted and repaired prior to being rented.

The Landlord is seeking compensation, in the amount of \$55.00 for cleaning the carpet in the rental unit. She submitted a receipt, in the amount of \$220.00, for cleaning carpets throughout the residential complex. She stated that she is only asking the Tenant to pay 25% of the total bill, as she believes the other 3 occupants should be responsible for paying the other 75% of the bill.

The Landlord is seeking compensation, in the amount of \$15.00, to repair a broken chair that was located in the common area. The Landlord stated that the Tenant denied breaking the chair however she stated she had been advised by other occupants of the residential complex that the chair had been broken after the Tenant had guests visiting.

The Landlord is seeking compensation, in the amount of \$72.50, for replacing two stools. The Landlord stated that the Tenant told her that he took the stools because he believed they belonged to his sister. The Landlord submitted a copy of a receipt, which shows that she purchased four stools for \$29.97 each, plus tax.

## **Analysis**

The evidence shows that the Tenant rented a bedroom in this house and shared common areas with three other occupants, each of which had a separate tenancy agreement with the Landlord.

The evidence shows that the Landlord paid \$220.00 to clean the carpet in the entire house, some of which was common area that was shared by four occupants. The Act does not require tenants to clean common areas at the end of the tenancy, therefore I can not find that the Tenant is responsible for pay 25% of the bill to clean the carpets in the entire house.

I find that the Landlord submitted insufficient evidence to show that the carpet in the bedroom used by the Tenant required cleaning. I hereby dismiss the Landlord's claim for compensation for cleaning the bedroom carpet, with leave to reapply on this specific issue.

I find that the Landlord submitted insufficient evidence to establish that the Tenant or his guest was responsible for breaking the chair in the common area, therefore I dismiss her application for compensation from the Tenant for the cost of replacing or repairing the chair. I find that the Landlord has not established that the chair was not broken by one of the other tenants living in the house, or a guest of one of those tenants. I do not find that the Tenant should be responsible for any portion of the cost of repairing or replacing this chair, as he is only responsible for his actions or the actions of his own guests.

I find that the Tenant failed to comply with section 45 of the Act when he did not provide one full month's notice of his intent to vacate the rental unit. I do not find that the Landlord is entitled to compensation for any loss of revenue that occurred due to the

Tenant's non-compliance with the Act, as the Landlord did not make a reasonable effort to minimize the damage or loss that occurred, as she is required to do by section 7(2) of the Act. In reaching this conclusion I was strongly influenced by the fact that the Landlord has made no effort to find new tenants for the rental unit since the tenancy ended, and that the rental unit remains vacant. On this basis, I dismiss the Landlord's application for compensation for loss of revenue.

In the absence of evidence to the contrary, I find that the Tenant removed two stools from the common area that belong to the Landlord. I find, therefore, that the Tenant must compensate the Landlord for replacing the stools, in the amount of \$59.94, plus 13% tax in the amount of \$7.79, for a total of \$67.73.

In the absence of evidence to the contrary, I find that the Landlord did not receive a forwarding address, in writing, for the Tenant until November 21, 2008. The evidence shows that the Landlord submitted an Application for Dispute Resolution, in which she applied to retain the Tenant's security deposit, on December 01, 2008, which is less than fifteen days after she received the Tenant's forwarding address. I therefore find that the Landlord did comply with section 38(1) of the Act.

I find that the Tenant has accrued interest in the amount of \$5.53, which was determined as follows:

- \$180.00 from August 24, 2006 to August 31, 2007(August 31, 2007 date estimated as the Landlord was unsure of when the Tenant authorized her to deduct \$10.00 from the deposit) = \$2.12
- \$170.00 from September 01, 2007 to June 01, 2008(June 01, 2008 date estimated as the Landlord was unsure of when the Tenant authorized her to deduct \$10.00 from the deposit) = \$1.92
- \$250.00 from June 01, 2008 to January 05, 2009 = \$1.49

I find that the Landlord's application has some merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

### **Conclusion**

I find that the Landlord has established a monetary claim, in the amount of \$117.73, which is comprised on \$67.73 in compensation for two missing stools and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

I find that the Landlord is entitled to retain \$117.73 to satisfy the monetary claim of the Landlord. I find that the Landlord must return the remaining \$132.27 of the security deposit plus interest in the amount of \$5.53, for a total of \$137.80.

Dated: January 29, 2009