



# 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 hearing dealt with the landlord's application for a monetary order for compensation associated with clean up, painting and pest control in the unit, retention of the remaining security deposit in partial satisfaction of the claim, and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

### **Issue to be Decided**

- Whether the landlord is entitled to a monetary order under the *Act*

### **Background and Evidence**

The tenancy began in 2001 and continued until late October 2008 when the tenant appears to have vacated without notice. When the current landlord took over management of the property, the original tenancy agreement for a tenancy commencing on June 15, 2001 was replaced by a tenancy agreement for tenancy commencing on November 1, 2006. The current landlord held the security deposit of \$388.00 which was collected on July 1, 2001.

Following the tenant's departure from the unit, by decision dated November 17, 2008 a dispute resolution officer authorized the landlord to retain \$192.00 from the security deposit plus interest to be applied against outstanding rent for the month of October 2008. Therefore, a balance of \$196.00 from the original security deposit continues to be held by the landlord.

Into evidence the landlord submitted photographs of the unit and invoices specific to clean up, painting and pest control undertaken to make the unit suitable for new renters. In summary, the landlord claims costs as follows:

- 1) \$500.00 (cleaning of unit: 20 hours x \$25.00/hour)
- 2) \$675.00 (bedbug pest control: amended from the original submission of \$845.00)
- 3) \$300.00 (pre-paint nicotine sealer applied on walls)
- 4) \$525.00 (furniture & garbage removal)

Total: \$2,000.00

### **Analysis**

Based on the documentary evidence and testimony of the parties, I find as follows:

- 1) \$500.00 (cleaning of unit)

While the tenant stated that she had cleaned the unit to the best of her ability, she did not dispute that the unit required extensive cleaning following her departure. Pictures submitted into evidence by the landlord support the landlord's claim that extensive clean up was required. I therefore find in favour of the landlord for the full amount of the claim for \$500.00.

- 2) \$675.00 (bedbug pest control)

Section 32 of the *Act* speaks to **Landlord and tenant obligations to repair and maintain**. In particular, section 32(1)(a) & (b) states:

32(1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

While the landlord acknowledged that bedbugs had previously been found in the building, the landlord takes the position that elimination of bedbugs found in the tenant's unit are her responsibility. For her part, the tenant states that she had diatomaceous earth applied around some of baseboards in her unit in order to prevent bedbugs from entering her unit from elsewhere in the building. The tenant asserted that she was not responsible for introducing bedbugs to the building and, as she did not have any bites from bedbugs, there were none in her unit.

The burden of proof is on the party making the claim. When one party provides evidence to support facts in one way, and the other party provides equally probable evidence to support facts another way, the party making the claim has not met the burden of proof on a balance of probabilities and the claim fails.

In the circumstances of this case, I find on a balance of probabilities that the landlord has not met the burden of proof. Accordingly, I dismiss this aspect of the landlord's claim.

### 3) \$300.00 (pre-paint nicotine sealer)

There was no evidence confirming whether or not this sort of sealer had been applied to the walls prior to the start of this tenant's occupancy of the unit. The landlord acknowledged that neither of the tenancy agreements in place during the term of this tenancy precluded smoking in the unit. Ultimately, as the tenant was not forbidden from smoking in the unit, I am persuaded that nicotine stains on the wall are a function of normal wear and tear and that the cost of applying the sealer is properly the landlord's. Accordingly, I dismiss this aspect of the landlord's claim.

4) \$525.00 (furniture & garbage removal)

The tenant stated that she had asked a friend to take responsibility for moving some of her belongings from the unit. It is not clear whether the tenant's friend did in fact remove any of the tenant's belongings after her departure. However, pictures submitted into evidence by the landlord support the landlord's claim that one and one half truckloads of furniture and garbage had to be removed. I therefore allow this aspect of the landlord's claim in the full amount of \$525.00.

Total: \$1,025.00

Pursuant to all of the above, I find the landlord has established a claim for \$1,075.00 which is comprised of \$500.00 for cleaning the unit, \$525.00 for furniture and garbage removal, and \$50.00 for recovery of the filing fee. I order that the landlord retain the remaining security deposit of \$196.00 and interest of \$9.99 in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 of the *Act* for the balance due of \$869.01 (\$1,075.00 - \$205.99).

**Conclusion**

I hereby grant the landlord a monetary order under section 67 of the *Act* for **\$869.01**. This order may be served on the tenant and may be filed in the Small Claims Court and enforced as an order of that Court.

DATE: February 9, 2009

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Dispute Resolution Officer