

# 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 was convened in response to applications by the landlord and the tenant. The landlord seeks a monetary order for damage to the rental unit and recovery of the filing fee associated with this application, and an order to retain the security deposit in partial satisfaction of the monetary claim.

The tenant seeks the return of double the security deposit and recovery of the filing fee associated with this application.

I accept that despite having been served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing.

The landlord testified that they have not been served with anything from the tenant in respect to the tenant's claims, and were not aware the tenant had filed a cross application.

The tenant's application is dismissed without leave to reapply.

This decision will only deal with matters pertaining to the landlord's application and merits of their claims.

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

Is the landlord entitled to the monetary amounts claimed?

### **Background and Evidence**

The undisputed evidence before me is as follows. The tenancy began on October 17, 2007 and ended February 28, 2009. Rent in the amount of \$675 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$337.50. The landlord offered the tenant 2 opportunities to conduct a move out inspection and neither the landlord nor tenant then jointly conducted such an inspection. The tenant provided the landlord with a forwarding address on February 28, 2009. The landlord subsequently identified some deficiencies on the tenant vacating the rental property and filed for dispute resolution on March 12, 2009. The landlord provided photographs and invoices to show the rental unit was left in an unclean condition and necessitating some repairs and replacement missing items. Specifically:

Exhaust fan filter	\$10
Light fixture globe	\$15
Repair larger holes in wall	\$20
General cleaning	\$100
Professional carpet cleaning	\$94.99

The landlord is claiming to retain a portion of the security deposit in the amount of **\$244.94**

### **Analysis**

Based on the landlord's undisputed testimony and submissions I find the landlord's claim is reasonable.

I find that the landlord has established a claim for **\$244.94** in costs associated with remediation of the rental unit. The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$294.94**

Residential Tenancy Policy Guideline 17 provides policy guidance with respect to security deposits and setoffs; it contains the following provision:

### **RETURN OR RETENTION OF SECURITY DEPOSIT THROUGH ARBITRATION**

1. The arbitrator will order the return of a security deposit, or any balance remaining on the deposit, less any deductions permitted under the Act, on:
  - a landlord's application to retain all or part of the security deposit, or
  - a tenant's application for the return of the deposit unless the tenant's right to the return of the deposit has been extinguished under the Act. The arbitrator will order the return of the deposit or balance of the deposit, as applicable, whether or not the tenant has applied for arbitration for its return.

## **Conclusion**

In this application the landlord requested partial retention of the security deposit in satisfaction of their monetary claim. It is appropriate that I order the return of the balance of the tenant's security deposit and accrued interest of \$5.72.

I grant the tenant a Monetary Order in the amount of **\$48.28**. If necessary, this order may be registered in the Small Claims Court and enforced as an order of that court.

Dated June 12, 2009