



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### Dispute Codes

MNDC, MNSD, & FF

### Introduction

This hearing dealt with the landlord's claim for damage or loss due to the tenant's failure to comply with the tenancy agreement or Act. Both parties were present at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present oral evidence, to cross-examine the other party, and to make submissions during the hearing.

### Issues(s) to be Decided

Is the landlord entitled to a monetary claim due to a breach of the tenancy agreement by the tenant?

### Background and Evidence

In this dispute the landlord is alleging that the tenant has breached several terms of the tenancy agreement, however, the landlord failed to provide a copy of that agreement. The tenant did confirm the following:

- This tenancy was a one year fixed term lease beginning on August 1, 2008 and ending effective July 31, 2009 and there was a liquidated damages clause that provided that the tenant agreed to pay the sum of \$550.00 if the lease was broken or breached before the end of the term; and
- The monthly rent was \$1,100.00 and a security deposit of \$550.00 was paid on August 1, 2008.

The parties agree that the tenancy ended effective March 31, 2009 after the tenant gave notice. The landlord indicated that he informed the tenant of his intent to collect the liquidated damages.

The parties participated in a move-in and move-out condition inspections and the landlord provided a copy of the inspections. It was agreed that the condition of the rental unit was good. The only notations on the condition inspection report are that the walls in the entrance and living room have a couple of marks.

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The landlord is seeking a monetary claim for the sum of \$926.63 comprised of the following:

- Liquidated damage charge pursuant to the tenancy agreement of \$550.00;
- Carpet cleaning charge of \$65.00;
- A drape or blinds cleaning charge of \$30.00;
- Cost to paint and materials to paint in rental unit for \$152.50;
- Charge to clean the fireplace and chimney of \$35.00;
- Recovery of the \$50.00 filing fee paid for this application and
- Taxes of \$44.13

From this sum the landlord has requested to retain the tenant's security deposit plus interest in partial satisfaction of this claim.

## Analysis

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

I grant the landlord's application in part. I am satisfied that the tenancy agreement had a liquidated damages clause and that the tenant breached the fixed term lease. Although I acknowledge the tenant's argument that he left due to alleged loss of quiet enjoyment, this is not a sufficient defence to not be responsible for the liquidated damages that were agreed to at the start of the tenancy. I am also satisfied that the charges of \$65.00 and \$30.00 for carpet and drape/bind cleaning are reasonable expenses and result from the tenant failing to clean these items at the end of the tenancy.

I do not accept the landlord's claim for costs to paint the rental unit, clean the chimney or for taxes. There is a complete lack of evidence to support the claim that any painting was required as a result of the tenant occupying the suite. The landlord acknowledged that there was no damage. I also find that it is not the tenant's responsibility to clean the chimney as this falls into maintenance that is the responsibility of the landlord. I draw the landlord's attention to the *Residential Tenancy Policy Guideline Manual*, section 1, which states in part:

### **FIREPLACE, CHIMNEY, VENTS AND FANS**

1. The landlord is responsible for cleaning and maintaining the fireplace chimney at appropriate intervals.
2. The tenant is responsible for cleaning the fireplace at the end of the tenancy if he or she has used it.



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3. The tenant is required to clean the screen of a vent or fan at the end of the end of the tenancy.
4. The landlord is required to clean out the dryer exhaust pipe and outside vent at reasonable intervals.

I also deny the landlord's claim for taxes. The landlord has failed to provide original receipts or any break down of the taxes claimed.

I grant the landlord's request to retain the tenant's security deposit plus interest of \$553.45 in partial satisfaction of this claim. I grant the landlord a monetary Order for the remaining balance owed of **\$141.55**.

## Conclusion

I grant the landlord's application in part and I granted the landlord a monetary Order for the sum of **\$141.55** due to breach of a fixed term lease and to cover costs related to carpet cleaning and drape/bind cleaning. I have denied the other items of damage claimed by the landlord.

Dated: July 10, 2009.

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Dispute Resolution Officer