



## **DECISION AND REASONS**

**Dispute Codes:** *MNSD, FF*

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order to recover the costs of cleaning, repair to the rental unit, replacement of some furniture and for the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her claim. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Has the landlord established a claim against the security deposit and if so in what amount? Is the landlord entitled to recover the filing fee?

### **Background and Evidence**

The tenancy started on April 01, 2007 for a fixed term of one year and then continued on as a month to month tenancy. The rent at the end of the tenancy was \$2906.00. The tenant paid \$219.00 every month towards the hydro bill. Prior to moving in, the tenant paid a security deposit of \$1,400.00 and a pet security deposit of \$1,400.00. The tenancy ended on June 30, 2009.

The rental unit was furnished. The landlord agreed that at the time of the move in, an inspection was not conducted. The landlord did not have a list of the items that were available in the rental unit at the start of the tenancy, for the tenant's use. Upon move out, the landlord completed a move out inspection in the presence of the tenant and filled out an inspection report. The tenant disagreed with several items and refused to sign the report.

The landlord stated that the unit was left in a messy condition and several items of furniture were missing. In addition, she stated that the pets that the tenant owned destroyed the door frames and the furniture. The landlord filed photographs depicting the condition of the unit and invoices for painting, cleaning and purchase of furniture. The landlord also stated that the house is undergoing renovations and that the progress of this work was hampered by a recent flood.

The tenant stated that the dogs belonged to a co tenant and he moved out in October 2008. In January 2009, the landlord inspected the unit for damage caused by the dogs

and asked the tenant to replace 13 wooden deck posts and to repair the scratches on the front door. The tenant complied with the request and filed photographs of the repaired items. The tenant stated that the repair of the above two items were the only requests of the landlord with regard to damage done by the pet. The tenant also filed photographs of the condition of the suite at the time he moved out.

The landlord is claiming the following:

Damage caused by pets:

1.	5 Bar stools	\$200.00
2.	1 Futon	\$600.00
3.	1 Living Room Chair	\$189.04
4.	6 Black Ikea Chairs	\$168.00
5.	3 Door Frames	\$200.00
	<b>Total</b>	<b>\$1357.04</b>

Other Damage:

1.	Hole in the Door	\$200.00
2.	Cleaning and Garbage Removal	\$793.80
3.	Painting Bathroom	\$200.00
4.	Damage to Refrigerator Door	\$200.00
5.	Repair blinds	\$30.00
6.	Hydro	\$200.00
7.	3 Dressers	\$336.00
	<b>Total</b>	<b>\$1959.80</b>

### **Analysis**

The testimony of the tenant and the landlord is conflicting with regard to the furniture that the landlord states, is missing from the unit and the damage to the rental unit.

The tenant denies having taken items from the furnished suite. As explained to the parties during the hearing, the onus or burden of proof is on the party making a claim to prove the claim. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

#### Damage caused by pets:

The landlord has not filed any evidence to support her claim of damage done by the pet to the bar stools, futon, living room chair, 6 black chairs and the door frames. In addition, after the pets moved out of the unit the landlord conducted an inspection to assess damage done by the pets and asked the tenant to perform repairs to two items. The tenant complied with the landlord's request. Therefore I find that the damage caused by the pets was taken care of in January 2009. Accordingly, the landlord has not established a claim for damage done by the pets at the end of the tenancy and her claim of \$1357.00 is dismissed.

#### Hole in the door:

Regarding the landlord's claim for \$200.00 to fix a hole in the door, the landlord stated that she has not yet conducted the repair but found out from a commercial door store that it will cost her approximately \$200.00. The landlord did not file a quotation. The tenant stated that he found a similar door in the store for \$36.00 and was willing to pay this amount towards the replacement of the door. In the absence of evidence from the landlord regarding the cost to fix the door, I award the landlord what the tenant is willing to pay to replace the door.

#### Garbage removal:

The landlord has filed a receipt in the amount of \$793.80 for cleaning and garbage removal. She has also filed a photograph of the load that went to the dump. The tenant agreed that he left a desk behind. The rest of the items depicted in the photograph, loaded on the truck do not belong to the tenant. Therefore I will award the landlord \$50.00 for the removal of the desk.

#### Cleaning:

Based on the photographs filed by both parties, I find that the unit did not require 24 hours of cleaning at \$20.00 per hour. I find it reasonable to award the landlord \$100.00 for cleaning.

#### Painting:

The landlord stated that the tenant painted the washroom a dark colour and she filed a photograph of the washroom. The landlord stated that she incurred an expense to buy and apply primer and paint. The landlord has filed a receipt for the work she did herself

in the amount of \$200.00. I find that the landlord did not file receipts to show the actual costs she incurred and she is also in the process of renovating the entire unit. However, since the tenant did paint the washroom in a dark blue colour, I find it reasonable to award the landlord \$100.00 towards painting the washroom.

#### Damage to Refrigerator door:

The landlord is also claiming for damage to the door of the refrigerator. She stated that it appeared as if someone used an abrasive scouring pad to clean it, leaving the door scratched. The landlord also stated that there are 3 dents in the door and is claiming \$200.00 towards fixing the damage. However the landlord did not provide any evidence by way of photographs to show the damage to the appliance and the tenant denies having caused damage to the door. In the absence of evidence to support the landlord's claim, I find that the landlord has not established a claim and therefore her claim for \$200.00 to repair the appliance is dismissed.

#### Damage to blinds:

The landlord is claiming \$30.00 to repair the string on the blinds. There is no damage to the blinds other than the draw strings are entangled. Since the tenancy lasted for two years it is more likely than not that this is the result of wear and tear for which the tenant is not responsible. Therefore the landlord's claim for \$30.00 is dismissed.

#### Hydro:

The landlord agreed that the tenant paid \$219.00 towards hydro every month including the last month of tenancy. However, she stated that the actual usage was more than the average dollar amount that she had charged the tenant.

The landlord is claiming approximately \$200.00 toward utilities. The landlord filed a usage report, but has not provided the exact amount that she is owed by the tenant. Based on the usage report for the January to May 2009, I find that the tenant owes \$67.25 towards hydro. Therefore I will award the landlord \$67.25 towards her claim for utilities.

#### Three Dressers:

The landlord is also claiming \$336.00 for the cost of 3 dressers and has filed a receipt. She stated that the tenant had removed the dressers and the tenant denied having taken the dressers. In the absence of additional information to support the landlord's claim, I find that that the landlord has not proven that three dressers were supplied to

the tenant at the start of the tenancy and that they were missing after the tenant moved out. Therefore, I find that the landlord has not established a claim for the dressers and accordingly her claim for \$336.00 is dismissed.

I find that the landlord has established a claim as follows:

1.	Damage to door	\$36.00
2.	Cleaning and Garbage removal	\$150.00
3.	Painting	\$100.00
4.	Hydro	\$67.25
	Total	<b>\$353.25</b>

Overall the landlord has established a claim of \$353.25 out of her claim of \$3316.84 and is therefore not entitled to the recovery of the filing fee. I find that the tenant is entitled to the return of the security and pet deposits (\$2,800.00) plus accrued interest (\$74.11) with a deduction of \$353.25.

### **Conclusion**

I hereby order that the landlord return \$2520.86 to the tenant within 15 days of receiving this decision.

Dated November 16, 2009.

---

Dispute Resolution Officer