



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MND MNSD

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial compensation of the monetary claim. An agent for the landlord, one tenant and an advocate for the tenant all participated in the teleconference hearing.

### Issues(s) to be Decided

Is the landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy began on May 1, 2007. On April 11, 2007 the tenants paid the landlord a security deposit of \$500 and a key deposit of \$60. The landlord and tenants conducted a joint move-in inspection on May 1, 2007. The monthly rent at the end of the tenancy was \$1075. The tenants gave notice one month in advance that they would be vacating the rental unit as of June 30, 2009. The tenants moved out on July 29, 2009.

The evidence of the landlord was that the tenants left the rental unit in poor condition, and the landlord was unable to re-rent the unit for July 2009 because of the condition of the unit coupled with one tenant's behaviour whenever the landlord attempted to show the unit to prospective tenants. The landlord has claimed the following amounts:

- 1) \$1075 for lost revenue for July 2009 – the landlord's testimony was that whenever the landlord's agent attempted to show the rental unit to prospective tenants, the male tenant would answer the door in his underwear. Further, the rental unit had a terrible smell. The landlord did not provide any direct testimonial or written evidence from the agent who conducted the showings, or any evidence such as a copy of a new tenancy agreement to establish when the landlord was able to re-rent the unit.

- 2) \$294.38 for 50 percent of the cost of repainting the unit and \$35.81 for special primer paint – the testimony of the landlord was that the terrible smell in the unit could not be removed from the walls without repainting. The landlord reduced the amount claimed by 50 percent as the unit had been painted two years ago. The landlord did not provide any direct testimonial or written evidence to support the allegation that the rental unit had a terrible smell.
- 3) \$60 for cleaning and \$10 for cleaning supplies – the landlord provided an invoice for the cleaning labour. The cleaner used cleaning supplies from the landlord's stock, so the landlord could not provide receipts for the cleaning supplies and the \$10 claimed was an estimate. The landlord did not provide photographs or other evidence to support the allegation that cleaning was required.
- 4) \$1864.94 for flooring – the landlord's testimony was that the flooring was very dirty and appeared not to have been cleaned at all during the tenancy, and that the dirty condition and terrible smell permeating the flooring necessitated replacement of the flooring in the unit. The landlord did not provide supporting evidence to support the allegation that replacement of the flooring was required.

The landlord's testimony was that the landlord's agent posted a copy of a Notice of Final Opportunity to Schedule a Condition Inspection on the tenants' door on June 27, 2009, but the tenants did not participate in the move-out inspection and therefore their right to the security deposit was forfeit.

The response of the tenant was as follows. The tenant disputes the landlord's claim in its entirety. The tenant stated that the rental unit was not in a dirty condition at the end of the tenancy, there was no terrible smell, and the landlord has not provided evidence such as photographs to support their claim. The tenants deny having received any notice to schedule a condition inspection. After the tenants gave their one month notice to vacate, the landlord gave the tenants one blanket written notice stating that the landlord would attend at the rental unit until it was rented. The tenants returned the parking key at the end of the tenancy.

### Analysis

Having considered the evidence, I find that the landlord did not provide sufficient evidence to substantiate any of their claims. I further find that the landlord has failed to prove that the tenants were provided with two opportunities to schedule a condition inspection, and therefore the tenants' right to return of the security deposit has not been

extinguished. The landlord had no authority to retain the parking key deposit after the tenants returned the key.

As the landlord's application was not successful, they are not entitled to recovery of the filing fee for the cost of their application.

### Conclusion

The landlord's application is dismissed.

I order that the landlord return the tenants' security deposit and applicable interest of \$513.03 as well as \$60 for the parking key deposit. I grant the tenant an order under section 67 for the balance due of \$573.03. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: December 15, 2009.

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Dispute Resolution Officer