



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MND, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order permitting him to retain the security deposit and a cross-application by the tenant for an order for the return of the deposit. Both parties participated in the conference call hearing.

### Issues(s) to be Decided

Is the landlord entitled to retain any part of the security deposit?

### Background and Evidence

The parties agreed that the tenancy began on October 1, 2008 and ended on September 30, 2009 and that on or about September 5, 2008 the tenant paid a \$925.00 security deposit and a \$200.00 pet deposit. The parties further agreed that on or about September 30 the landlord's agents and the tenant conducted a condition inspection of the rental unit and generated a report which did not indicate any damage to the carpet. The parties further agreed that the tenant had the carpet professionally cleaned on September 29, 2009.

The landlord's agent testified that after the condition inspection report was completed it was discovered that there were a number of reddish brown stains in the carpet which could not be removed through cleaning. The landlord provided photographs of the stains. The landlord provided a written estimate of the cost of replacing the carpet,

which was \$1,059.10. The landlord's agent testified that the rental unit was re-rented without the carpet having been replaced.

The tenant testified that he did not notice stains in the carpet at the time the condition inspection was performed and argued that the landlord should be prevented from making a claim for damaged carpets when no damage was indicated on the condition inspection report. The tenant provided photographs of the carpet in question.

### Analysis

Upon examining and comparing the photographs provided by the parties, the tenant's photographs show a square indentation which matches the shape of a stain shown by the landlord's photographs. I find on the balance of probabilities that the stains in the carpets, which correspond with the shape of the legs on the tenant's sofa, were created by that sofa. Although the damage was not noted on the condition inspection report, I do not consider that report to be conclusive of damage as it is entirely possible that damage will come to light after a report is completed. I accept that it was an oversight on the part of the landlord's agents that caused them to miss noting damage to the carpet. I find that the tenant is liable for the damage to the carpet. However, it is clear that the damage caused did not prevent the landlord from continuing to use the carpet for its intended purpose, but merely devalued the carpet. I find that the landlord therefore may not recover the replacement value of the carpet. I find that \$200.00 will adequately compensate the landlord for the damage to the carpet and I award the landlord that sum. I further find that the landlord is entitled to recover the \$50.00 filing fee paid to bring his application for a total entitlement of \$250.00.

### Conclusion

The landlord is awarded \$250.00. The landlord currently holds \$1,130.44 which represents the \$925.00 security deposit, \$200.00 pet deposit and \$5.44 in interest which has accrued. I order that the landlord retain \$250.00 from those deposits in full satisfaction of the claim and I order the landlord to return the balance of \$880.44 to the

tenant forthwith. I grant the tenant an order under section 67 for the balance due of \$880.44. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Dated: February 18, 2010

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