

## **DECISION**

Dispute Codes      MND, MNDC, MNSD, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution for a monetary order.

The hearing was conducted via teleconference and was attended by the landlord, his agent and one of the tenants.

### Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for damage to the rental unit; for all or part of the security deposit; for money owed or compensation for damage or loss; and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The tenancy began on April 1, 2001 as a month to month tenancy for a current monthly rent in the amount of \$975.00 due on the 1<sup>st</sup> of the month, a security deposit of \$450.00 was paid prior to April 1, 2001.

The landlord submitted into evidence the following documents:

- A summary of the dispute and monetary claim;
- Copies of receipts for picture development (\$34.07), carpet cleaning (\$183.70), garbage bin rental (\$540.23); general cleaning (\$200.00); and yard clean up (\$150.00);
- A copy of the tenants' application for tenancy;
- A copy of the tenants' forwarding address dated November 30, 2009; and
- 36 photographs of the rental unit and residential property.

Both parties provided testimony regarding events during the tenancy. The tenant contended that the condition of the basement bedroom floor was the result of a leak but other than that the tenant agreed with the condition of the rental unit and residential property depicted in the photographs from the landlord.

The tenant testified that he had called the landlord's agent the day before the end of the tenancy to make an appointment to drop off the keys with the agent and that the agent went to the rental unit shortly after that called and entered the rental unit and saw it had not yet been cleaned. The tenant stated that the agent then called the tenants back and started yelling at them.

The landlord, his agent and the tenants met at the property the next day, and both parties agreed that a condition inspection report was not completed. The tenant stated it was not completed because the landlord did not like the fact that one of the tenants was taking pictures

(not submitted for this hearing). The landlord stated they only wanted the tenants to sign a document giving up their right to the security deposit.

### Analysis

While Section 35 of the *Act* requires that a landlord to complete a condition inspection report at the end of tenancy and Section 36 stipulates that if a landlord fails to do so he extinguishes his rights to claim the security deposit, this does not preclude the landlord from making a claim for damages to a rental unit.

Section 37 of the *Act* requires the tenant, when vacating a rental unit, to leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Based on the landlord's photographs and the tenant's confirmation that the photographs represent the condition of the property at the end of the tenancy, I find the tenants have failed to comply with Section 37 of the *Act*.

As compensation for the tenant's non-compliance with Section 37, I find the landlord's claim, substantiated by receipts, to be reasonable costs incurred.

### Conclusion

I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,158.00** comprised of \$1,108.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$476.47 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$681.53**. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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*.

Dated: May 03, 2010.

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Dispute Resolution Officer