



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes**      MND, MNSD, FF

### **Introduction**

This hearing was convened by way of conference call on May 7, 2010 and on May 10, 2010 to deal with the landlord's application for a monetary order for damage to the unit, site or property, to keep all or part of the security deposit in partial satisfaction of the claim, and to recover the filing fee from the tenant for the cost of this application.

### **Issues(s) to be Decided**

Is the landlord entitled to a monetary order for damage to the unit, site or property?  
Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

### **Background and Evidence**

The landlord's agent testified that the tenants rent a suite in one of 21 buildings on a property containing townhouses all owned by the landlord. The damage claimed is in relation to a unit that is not rented by the tenants, but in a vacant suite. The landlord's agents also stated that the vacant unit was damaged by the tenants' child or children, and because it's on the same property as the unit rented by the tenants, the *Residential Tenancy Act* applies and the tenants are obligated to pay for the damage.

The landlord's agents argued that the Landlord's Application for Dispute Resolution form states "For damage to the unit, site or property," and further, the Tenancy Agreement, a copy of which was provided in advance of the hearing, states, at paragraph 12, "The Tenant must maintain ordinary health, cleanliness and sanitary

standards throughout the residential premises and residential property.” Therefore, the *Residential Tenancy Act* applies.

### **Analysis**

I refer firstly to Section 1 of the Residential Tenancy Act, which defines “landlord” as:

**1 “landlord”**, in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner’s agent or another person who, on behalf of the landlord,
  - (i) permits occupation of the rental unit under a tenancy agreement, or
  - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;

I find that “the rental unit” means that the tenants have only contracted for the rented unit that they reside in and any common areas associated with that rental unit. Therefore, the tenancy agreement only applies to the unit they have rented and the common areas associated with that tenancy.

Further, the Residential Tenancy Act Regulation states that:

**8 (2) Tenant’s obligations:**

- (a) The tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

I find that the tenants named in this dispute have no keys to the unit that was damaged, and therefore, the *Act* does not apply, nor do the Regulations.

### **Conclusion**

I find that the *Residential Tenancy Act* does not apply in these circumstances, and the Residential Tenancy Branch has no jurisdiction with respect to the claim made by the

landlord. For that reason, I hereby dismiss the application of the landlord without leave to reapply.

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 10, 2010.

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Dispute Resolution Officer