



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MND, MNSD, MNDC, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing.

At the outset of the hearing the tenant advised that he had not received any evidence from the landlord and asked that the claim be dismissed. The landlord testified that he served evidence by leaving it in the tenant's mailbox. As leaving documents in a mailbox is an acceptable means of service under section 88(f) of the Act, I advised the tenant that since he claimed to have not received the documents, I would grant a request for an adjournment to give the landlord opportunity to re-serve the documents. The tenant insisted that he wanted to proceed with the hearing and agreed that I should consider the landlord's evidence even though he had not seen it. The tenant indicated that he had photographic evidence he could submit and I again asked the tenant if he wished to adjourn the matter to give him opportunity to submit his evidence and receive the landlord's evidence. The tenant again insisted that it would be more prejudicial to him to delay the hearing and stated that he wanted to proceed with the hearing. It was clearly explained to the tenant that I would be considering the landlord's evidence and that neither party would be permitted to enter additional evidence after the close of the hearing. The tenant stated that he wished to proceed on this basis.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The parties agreed that the tenancy began on October 1, 2009 and ended on February 28, 2010. They further agreed that rent was set at \$700.00 per month and that the tenant paid a \$350.00 security deposit. The rental unit is located on the lower floor of a home in which the landlord occupies the upper floor.

The landlord testified that the tenant lost his key on two occasions and the landlord had the lock re-keyed each time. On the first occasion, the landlord had the lock re-keyed on February 1 at a cost of \$67.38 and on the second occasion the landlord had the lock rekeyed on February 28 at a cost of \$154.49. The landlord testified that the second re-keying was significantly more expensive because it was done on an emergency basis. The tenant acknowledged that he lost his key in January and testified that he expected that he would be charged for the cost of reproducing a key rather than the cost of re-keying the locks. The tenant testified that on the second occasion, which was the end of the tenancy, he left his keys in the rental unit.

The landlord seeks to recover \$75.00 as the value of items which were missing from the rental unit at the end of the tenancy. Specifically, the landlord claimed that hangers, a mattress pad, a beer mug, a garbage bin, a wash pail and 2 light bulbs were missing at the end of the tenancy. The tenant denied having taken any of the items.

The landlord claims \$150.00 as the cost of cleaning the rental unit at the end of the tenancy. The landlord claimed that he spent one hour cleaning under the refrigerator and stove, one hour cleaning the refrigerator, one hour cleaning the stove and oven and three hours cleaning windows, curtains, floors, counters and the entryway. The tenant and his witness testified that the unit was in clean condition at the end of the tenancy.

The landlord seeks to retain \$55.00 from the security deposit for cleaning the carpet. The landlord relies on the following provision in the tenancy agreement:

It is agreed that upon vacating the premises the tenant will allow \$55.00 to be deducted from the damage deposit for carpet cleaning.

### Analysis

I find that the landlord has proven that the locks had to be re-keyed on two occasions. On the first occasion the tenant admitted that he lost the key. Although the tenant claimed that he left the key in the rental unit at the end of the tenancy, I find that he has not proven this on the balance of probabilities. The tenancy agreement clearly provides that the tenant agrees to pay for re-keying by a locksmith if the key is lost. I find this provision to be reasonable as the landlord also lives in the residential property and his security could be compromised. I find that the landlord acted reasonably and the costs associated with re-keying the locks are reasonable. I accept that an emergency re-keying is considerably more expensive than one in which the locksmith can make an appointment at his convenience. The landlord had no obligation to pursue the least expensive means of replacing the locks, particularly as the tenancy agreement specifically states that a locksmith will do the work. I award the landlord \$221.87 which represents \$67.38 for the first replacement and \$154.49 for the second.

I find it more likely than not that the items which the landlord claims were missing were indeed missing at the end of the tenancy. I award the landlord \$75.00.

Having reviewed the landlord's photographs, I accept that some additional cleaning was required at the end of the tenancy, but I find that the landlord exaggerated the time spent cleaning. I find that \$40.00 will adequately compensate the landlord and I award him that sum.

I dismiss the landlord's claim for \$55.00 for carpet cleaning. The Act specifically prohibits the landlord from including a term in the tenancy agreement whereby he keeps part of the deposit.

I find that the landlord is entitled to recover the \$50.00 paid to file his application. I dismiss the landlord's claim for the cost of sending documents via registered mail as under the Act the only litigation-related expense I am empowered to award is the filing fee.

Conclusion

The landlord has been awarded \$386.87 which represents \$221.87 for re-keying locks, \$75.00 for missing items, \$40.00 for cleaning and the \$50.00 filing fee. I order the landlord to retain the \$350.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance owing of \$36.87. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Dated: August 16, 2010

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Dispute Resolution Officer