



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MND, MNSD, O

### Introduction

This was an application by the landlord for a monetary order and an order to retain the security deposit. The hearing was conducted by conference call. The landlord was represented by its resident manager and the tenant attended the hearing.

### Issues(s) to be Decided

Is the landlord entitled to a monetary order and an order to retain the tenant's security deposit?

### Background and Evidence

The rental unit is an apartment in North Vancouver. The tenancy began on May 1, 2009 for a fixed term ending April 30, 2010 and thereafter month to month with rent in the amount of \$1,125.00 payable on the first of each month. The tenant paid a security deposit of \$562.50 on May 1, 2009. The tenant gave written notice to the landlord that he intended to move out of the rental unit on April 30, 2010. The Notice was not dated but the tenant acknowledged in the Notice that it was given a week late.

The landlord's representative and the tenant participated in a condition inspection of the rental unit on April 30, 2010. The inspection report noted, among other matters that the carpet was badly stained in the hall and the blinds were damaged. The security deposit statement that formed part of the condition inspection report set out intended charges against the tenant's security deposit including a \$165.00 charge for carpet cleaning, \$35.00 for painting, \$10.00 for repair, a liquidated damage charge of \$50.00 and

\$80.00 for damage to blinds for a total deduction from the deposit of \$340.00. Although recorded on the form as balance due to the landlord, this left a balance due to the tenant of \$222.50. The tenant signed the form confirming his agreement with the proposed deductions from his deposit.

The landlord submitted an invoice for carpet cleaning in the amount of \$73.50 and an invoice for the removal and replacement of blinds and the removal of carpet and replacement with laminate flooring in the amount of \$1,635.00.

Landlord's representative testified that the carpet could not be cleaned and it had to be replaced. The landlord's representative acknowledged that the landlord has been replacing the carpet in rental units with laminate flooring when suites become vacant and the flooring needed to be replaced.

The tenant's position is that the landlord set out deductions from the security deposit and the tenant agreed to them; the landlord should not now be able to claim for replacing the flooring, particularly when the landlord did not take the steps it initially proposed to clean the carpet. The tenant submitted that the landlord is replacing carpet with laminate flooring in rental units when they become vacant and the landlord is now trying to have him subsidize some of its renovation and upgrade costs.

### Analysis and Conclusion

The landlord's representative conducted a condition inspection with the tenant. On the inspection form the landlord noted damage to the rental unit and specified deductions to be made from the tenant's security deposit. The tenant signed the form stating his agreement with the deductions specified by the landlord. The landlord has now claimed the whole of the deposit on the basis that the carpet could not be cleaned and had to be replaced. I find that the state of the carpet was known to the landlord when the condition inspection form was completed and the security deposit statement was filled out. The landlord specified the deductions and it did not place any qualifications on the

amounts it claimed. The evidence established that the landlord has been replacing carpet with laminate flooring in other units. I accept that the carpet was stained, but I was not provided with any evidence as to the age of the carpet and whether or not it was due to be replaced. The matters claimed by the landlord did not include any hidden damage that may not have been apparent at the time of inspection. I find that the landlord should be bound by the security deposit statement and that it is not entitled to claim the whole of the tenant's deposit on this application.

I find that the landlord is entitled to retain the sum of \$340.00 from the security deposit that it holds. The landlord is not entitled to recover the filing fee for this application.

Residential Tenancy Policy Guideline 17 provides policy guidance with respect to security deposits and setoffs; it contains the following provision:

**RETURN OR RETENTION OF SECURITY DEPOSIT THROUGH ARBITRATION**

1. The arbitrator will order the return of a security deposit, or any balance remaining on the deposit, less any deductions permitted under the Act, on:

- a landlord's application to retain all or part of the security deposit, or
- a tenant's application for the return of the deposit unless the tenant's right to the return of the deposit has been extinguished under the Act. The arbitrator will order the return of the deposit or balance of the deposit, as applicable, whether or not the tenant has applied for arbitration for its return.

In this application the landlord requested the retention of the security deposit in satisfaction of its monetary claim. Because the claim has been allowed in part and there is a balance due to the tenant, I grant the tenant a monetary order in the amount of \$222.50. This order may be registered in the Small Claims Court and enforced as an order of that court.