



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MND, MNDC, MNSD, FF, O

### Introduction

This hearing dealt with the landlord's application for a Monetary Order for damage to the rental unit; damage or loss under the Act, regulations or tenancy agreement; authorization to retain the security deposit; recovery of the filing fee and other issues. Both parties appeared at the hearing and were provided the opportunity to be heard.

I determined that the landlord had not provided any documentary or photographic evidence in support of her claim. I determined that the tenants had provided a written submission to the Residential Tenancy Branch and sufficiently served it upon the landlord.

### Issues(s) to be Decided

Has the landlord established an entitlement to compensation from the tenants?

### Background and Evidence

I was provided undisputed evidence as follows. The tenancy commenced in September 2006 and the tenants paid a \$700.00 security deposit in October 2006. Condition inspection reports were not prepared by the landlord. The tenants gave a verbal notice to end the tenancy at the end of March 2010 which the landlord accepted to be effective at the end of April 2010. On May 24, 2010 the parties met at the rental unit to inspect the unit. On May 25, 2010 the landlord made this application upon obtaining the

tenants' forwarding address through her own research. Shortly thereafter the landlord received the tenant's forwarding address in writing via registered mail.

In making this application the landlord requested compensation for re-keying the locks, cleaning the carpets and repairing holes in the wall and a broken window totalling \$700.00 – the amount of the security deposit. The landlord did not provide any documentary or photographic evidence to support the condition of the unit at the end of tenancy. Nor did the landlord provide receipts or invoices to substantiate the quantum of her claim. Further, the landlord acknowledged the carpets were removed from the upper unit and that the carpets were likely original to the house which was constructed in the 1960's. The landlord was unable to provide the amount billed to her for repairing holes and repainting as it part of a much larger renovation bill. The landlord also acknowledged that the broken window was first noticed by the landlord May 8, 2010 and the window has not yet been repaired.

The landlord was informed of her burden to prove her claim and that I was dismissing her application due to insufficient evidence. The landlord agreed to pay the tenants their security deposit plus interest of \$22.08 forthwith. The tenants requested a Monetary Order be provided to them to ensure payment.

### Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided in section 7 and 67 of the Act. Accordingly, an applicant must prove the following:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;

3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

Given the above requirements to establish an entitlement to compensation and the landlord's lacking submission, I dismissed the landlord's claim against the tenants without leave to reapply.

In accordance with Residential Tenancy Policy Guideline 17, where a landlord's claim against the security deposit is dismissed, I provide a Monetary Order to the tenants to ensure the security deposit and interest is returned to them. I provide to the tenants with this decision a Monetary Order in the amount of \$722.08. If the landlord does not pay the tenants this amount forthwith the tenants must serve the Monetary Order upon the landlord and may file it in Provincial Court (Small Claims) to enforce as an Order of that court.

### Conclusion

The landlord's application has been dismissed and the landlord must pay to the tenants \$722.08 forthwith. The tenants have been provided a Monetary Order for this amount to ensure payment is made.

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: October 13, 2010.

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Dispute Resolution Officer