



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

**Dispute Codes**      MND

### **Introduction**

This was an application by the landlord for a monetary order for damage to the rental unit.

Both parties participated in the hearing with their submissions, document evidence and sworn testimony (also evidence) during the hearing. The landlord testified that he did not forward any document evidence as sent to this file - to the tenant. The landlord acknowledges receiving the tenant's package of evidence.

Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence in this hearing that they wished to present.

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

Is the landlord entitled to a monetary order in the amount claimed for damages?

### **Background and Evidence**

The undisputed relevant sworn testimony in this matter is that the tenancy started in July 1999 and ended May 30, 2010. At the end of the tenancy the parties did not mutually conduct a move out inspection.

The landlord is claiming that the tenant caused damage to the rental unit hardwood floors – primarily as a result of pet urine staining. The tenant disputes that her pets ever urinated on the hardwood flooring and provided into evidence a letter dated May 30, 2010 which they claim was signed by the landlord – stating, in part, *“I have no issues with the state of the apartment”*. The landlord disputed that he signed the letter and claims that the signature is a forgery. The landlord claims that his true signature is

represented in the tenant's evidence of a rent increase form and on his application for dispute resolution, and that he has only one signature.

The landlord testified that the hardwood floors were in "OK" condition at the outset of this tenancy and that at the end of the tenancy, the purported damage to the hardwood floors was beyond reasonable wear and tear for eleven years of tenancy. The tenant testified that any deficiency in the floors would have been as result of reasonable wear and tear.

### **Analysis**

None of the landlord's supplementary document evidence submitted to this file and not sent to the tenant was considered in the determination of this matter.

On preponderance of the relevant and accepted evidence and on the balance of probabilities I have reached a decision.

Under the *Act*, the party claiming the damage or loss bears the burden of proof. Moreover, the applicant must satisfy each component of the following test:

1. Proof the damage or loss exists,
2. Proof the damage or loss were the result, *solely, of the actions or neglect of the other party (the tenant)* in violation of the *Act* or agreement
3. Verification of the actual amount required to compensate for the claimed loss or rectify the damage.
4. Proof that the claimant followed section 7(2) of the *Act* by taking reasonable steps to mitigate or minimize the loss or damage.

In addition, when a claim is made by the landlord for damage to property, the normal measure of damage is the cost of repairs or replacement (with allowance for such items as loss of rent or loss of occupation during the repair, depreciation and reasonable wear and tear), whichever is less. The onus is on the tenant to show that the expenditure is unreasonable.

Therefore, in this matter, the landlord bears the burden of establishing their claim on the balance of probabilities. The claimant must prove the existence of the damage or loss, and that it stemmed directly from a violation of the agreement or a contravention of the

*Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. Finally, the claimant must show that reasonable steps were taken to address the situation and to mitigate the damage or losses that were incurred.

In absence of any accepted document evidence by the landlord, I find the landlord has not met the test for damages and loss. The landlord has not provided *accepted* evidence to support their claim that the tenant in this matter caused damage to the rental unit beyond reasonable wear and tear. As a result, **I dismiss** the landlord's application in its entirety.

### **Conclusion**

The landlord's claim **is dismissed**, 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*.