



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order for damages, money owed or compensation for damage or loss deposit and recovery of the filing fee. Both parties participated in the conference call hearing and gave affirmed testimony.

### Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

### Background and Evidence

This tenancy began December 1, 2009 and ended April 30, 2011.

The landlord testified that the tenant caused damage to the rental unit and that the unit had to be repainted for the new tenants. The landlord stated that a move-out condition inspection was completed with the tenant put has not provided a copy as evidence. The landlord stated that a third party had the move-out condition inspection report and photos from the end of the tenancy however this information has not been submitted into evidence for this hearing or provided to the tenant. The landlord did state that the rental unit had been repainted at the request of the new tenants.

The landlord stated that he had not submitted evidence to either the Residential Tenancy Branch or the tenant as he did not understand that he was required to do so.

The tenant testified that he did not leave the rental unit dirty, he cleaned the carpets prior to vacating, that no move-in inspection report was ever completed and that he has never received a copy of the move-out condition inspection report or copies of any of the landlord's photographic evidence.

Both parties continually wanted to argue whether or not the tenant had paid a security deposit and were reminded a number of times that this was an application by the landlord for damage to the unit and compensation for damage or loss.

### Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the landlord has not met the burden of proving that they have grounds for entitlement to a monetary order for damages or loss.

The parties gave directly conflicting testimony and the landlord has provided no evidence that proves the rental unit was damaged in any way by the tenant. The landlord did submit a receipt for painting however this receipt on its own does not establish damage to the unit as the landlord stated in the hearing that the new tenants had requested to have the unit re-painted. The landlord has also not provided a copy of a move-out condition inspection report that establishes damage to the rental unit or photographic evidence of any damage.

In regards to the landlord's statement that he did not understand how to submit evidence, this information is provided in the hearing package that is prepared by the Residential Tenancy Branch for both the applicant and respondent.

Residential Tenancy Branch Rules of Procedure Rule 3 speaks to:

**3.5 Evidence not filed with the Application for Dispute Resolution**

*a) Copies of any documents, photographs, video or audio tape evidence that are not available to be filed with the application, but which the applicant intends to rely upon as evidence at the dispute resolution proceeding, must be received by the Residential Tenancy Branch and must be served on the respondent as soon as possible, and at least (5) days before the dispute resolution proceeding as those days are defined the "Definitions" part of the Rules of Procedure.*

Based on the above facts I find that the landlord is not entitled to monetary order for damages or loss. The landlord's application is dismissed without leave to reapply.

As the landlord has not been successful in their application they are not entitled to recovery of the \$50.00 filing fee.

Conclusion

The landlord's application is dismissed in its entirety 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: August 19, 2011.

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