



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **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.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?  
Should the landlord be permitted to retain the security deposit?

### Background and Evidence

The parties agreed that the tenancy began in September 2009 at which time the tenant paid a \$700.00 security deposit, and ended in May 2011. The parties further agreed that a written condition inspection report was not completed either at the beginning or at the end of the tenancy.

The landlord claimed that the tenant had caused damage to the rental unit, including damage to the bathtub, bathroom taps, cabinets, microwave door and the door leading to the utility room. He further stated that at the end of the tenancy there were holes in the walls which required repair, water damage under the sink and that repainting and cleaning was required. The landlord alleged that the tenant verbally agreed that he had caused the damage.

The tenant acknowledged that he had caused some damage to the microwave door but denied having caused any other damage and further denied having verbally agreed that he was responsible.

When asked the cost of the repair to the microwave, the landlord did not answer and stated that it was in his view a minor issue.

### Analysis

The landlord bears the burden of proving his claim on the balance of probabilities. The landlord gave oral testimony, but provided no evidence to corroborate his testimony. No condition inspection report was completed, no photographs or invoices were provided and no witnesses were called as evidence that there was damage or that repairs were completed.

In order to prove his claim, the landlord must prove that the tenant caused damage, that the damage was beyond what can be characterized as reasonable wear and tear and must also prove that he suffered some loss as a result of that damage. I find that the landlord has not proven his claim and accordingly I dismiss the claim in its entirety.

Residential Tenancy Policy Guideline #17-2 provides as follows:

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.

I find that the tenant has not extinguished his right to the return of the deposit. In the spirit of administrative efficiency and pursuant to the terms of the Residential Tenancy Policy Guidelines, I order that the landlord forthwith return to the tenant the \$700.00 security deposit. I note that no interest is payable on the deposit. I grant the tenant a monetary order under section 67 for \$700.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

### Conclusion

The landlord's claim is dismissed and the landlord is ordered to return the security deposit to the tenant.

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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Residential Tenancy Branch