



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNSD, FF

### Introduction

This conference call hearing was reconvened following an adjournment on September 13<sup>th</sup>, 2011, in response to the landlord's application for a Monetary Order for damage to the rental unit; to keep all or part of the security deposit; and to recover the filing fee associated with this application.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to recover the filing fee?

### Background and Evidence

The rental unit consists of a fully furnished single detached home. Pursuant to a written agreement, the tenancy started on April 1<sup>st</sup>, 2011. The rent was \$3500.00 per month and the tenants paid a security deposit of \$1750.00, and a pet damage deposit of \$1750.00. Condition inspection reports were completed at the start and the end of the tenancy.

In her documentary evidence, the landlord provided 7 photographs in support of her claim for damages, showing surface gouges on hardwood flooring, gouges on the walls that were filled but not painted, and ink-like stains that the landlord said needed to be professionally removed.

The landlord provided the following invoices:

-	Additional cleaning:	\$ 51.24
-	Cleaning BBQ:	\$ 8.33
-	Removing pot stains:	\$ 16.67
-	Locate cook books:	\$ 8.33
-	Refill propane tank:	\$ 58.34
-	Replace laundry hamper:	\$ 24.00
-	HST for above work:	\$ 13.88
-	New Air filter kit:	\$ 56.99
-	Wall and door repairs:	\$ 252.00
-	Sub-total:	\$ 489.78
-	Filing fee:	\$ 50.00
-	Total:	\$ 539.78

The landlord deducted that amount from the tenants' security and pet damage deposits and gave the tenants a cheque for \$2960.22. She testified that the damages were identified during the move-out inspection, and that tenant J.M. agreed to obtain quotes to repair the walls. The landlord said that she obtained a quote of \$252.00, which she found reasonable. She said that she emailed the quote to the tenant, that the tenant was away for 6 to 8 weeks and that since she did not get a response she went ahead with the repairs in order to restore and re-rent the property. She said that the damaged wall was last painted in 2008. She said that there were scratches on the hardwood floor, however there is no apparent monetary claim made regarding this issue.

The tenant only agreed to the replacement of the air filter kit. He did not agree with the work required to fix the walls, as he stated that it could have been fixed in 5 minutes with a magic marker. Concerning the photographs, he stated that the one depicting the gouge behind the bedpost must have been pre-existent because they did not move the bed during the tenancy. He stated that he offered to fix the walls but that the landlord avoided him for a week.

A concern was raised at the hearing concerning the landlord's claims for additional cleaning and costs of replacing cook books or additional cleaning of household items that are used every day, in that there is an expectation that these items will sustain a certain amount of wear and tear dependent upon their use, and that there is no gauge by which to measure whether such use can be considered beyond reasonable wear and tear. The landlord was informed that such costs are expected during a tenancy, and that they ought to be recovered by determining the rent. The landlord agreed and therefore I will not consider this aspect of the landlord's claim. At issue throughout the hearing was the \$252.00 claim for repairing the walls.

### Analysis

Section 37 of the *Residential Tenancy Act* provides in part that upon vacating a rental unit, the tenant must leave the unit reasonably clean and undamaged, except for reasonable wear and tear.

Based on the condition inspection reports and the parties' testimony, I find that the tenant did cause some damage that ought to have been captured and repaired prior to ending the tenancy. That responsibility ultimately rests upon the tenant.

The *Residential Policy Guidelines* provide an estimated useful life for various items, including finishes in rental accommodations for reasonable wear and tear. In the case of paint that useful life is four years. The paint was already three years old, however in many cases paint has lasted longer than the estimated useful life set out by policy. In

view of the damages I find that the walls and paint needed repair and that their useful life was shortened and I award the landlord \$200.00 for this aspect of her claim. The tenant also agreed to the replacing of the air filter and I award the landlord \$56.99 for that repair.

### Conclusion

The landlord established a claim of \$256.99. Since she was partially successful, the landlord is entitled partial recovery of the filing fee and I award her \$25.00 for a claim totalling \$281.99.

Since the landlord kept \$539.78 from the security deposit, the landlord owes the tenant a balance of \$257.79. Accordingly I grant the tenant a monetary order for the sum of \$257.79

This Order may be registered in the Small Claims Court and enforced as an order of that Court.

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 17, 2011.

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Residential Tenancy Branch