



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND, MNSD, FF

### Introduction

This matter dealt with an application by the Landlord for compensation for damages to the rental unit, to recover the filing fee for this proceeding and to keep the Tenants' security deposit and pet damage deposit.

In previous proceedings between these parties heard on June 22, 2011, the Landlord applied for compensation for cleaning and repair expenses. In particular, the Landlord sought repair expenses for mould due to a leak in the roof which she alleged the Tenants failed to report and for the cost to replace a carpet in one bedroom that was damaged by pet urine. The Landlord was awarded \$150.00 to compensate her for the damaged carpet, she was ordered to retain that amount from the Tenants' security deposit and further ordered to return the balance of \$700.00 to the Tenants. A Monetary Order for \$700.00 was issued to the Tenants. The Dispute Resolution Officer also noted in his decision, that due to the fact that the Landlord had not completed a move in or a move out condition inspection report, it was very difficult for her to prove that the Tenants were responsible for the damages alleged.

In this matter, the Landlord claims that since the hearing on June 22, 2011, she has discovered further damages for which she believes the Tenants are responsible despite their being another tenancy that started on March 1, 2011 (or a day after the tenancy ended). The Landlord admitted that she did a move in condition inspection with the following tenant and discovered some damages (which was submitted as evidence at the previous hearing). However, the Landlord said it was not until she moved into the rental unit (at some undetermined date) that she discovered the following additional damages:

- Holes in a wall where a shelf was mounted;
- Damage to a kitchen screen;
- Damage to the exterior of the refrigerator door;
- Damage to a window frame; and
- Staining and pulls to a living room carpet.

I find that the Landlord is barred by the principle, *res judicata*, from proceeding with her claim in this matter. In particular, I find that the damages alleged by the Landlord should have and could reasonably have been included in her claim during the previous

proceedings held on June 22, 2011. I find that had the Landlord exercised due diligence and completed a move in and a move out condition inspection report with the Tenants as she was required to do under the Act, she would likely have discovered all damages that occurred during the tenancy and would have been in a position to pursue those damages at the previous hearing. The Landlord cannot now rely on her own failure to take reasonable steps to ascertain the condition of the rental unit and to advance all claims for all cleaning and repair expenses in the previous hearing as her justification to now advance new claims. Furthermore, an Order was made in the previous proceedings for the return of the balance of the Tenants' security deposit and pet damage deposit and therefore it is no longer available to the Landlord to make a claim against them.

The Tenants claimed at the beginning of the hearing that the previous decision was in error in so far as the Dispute Resolution Officer found that the security deposit and pet damage deposit were \$425.00 each when in fact they were \$475.00 each. However, I find that this is not a matter for this hearing. The Tenants will either have to seek a correction of the previous Decision and Order or apply for dispute resolution to recover the balance.

### Conclusion

The Landlord's application 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*.

Dated: November 21, 2011.

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Residential Tenancy Branch