

## **DECISION**

Dispute Codes      MND, MNR, MNSD, FF

### Introduction

This is an application filed by the Landlord for a monetary order for damage to the unit, site or property, for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony.

At the beginning of the hearing the Landlord made amendments to the monetary claim by lowering the amounts on 3 parts of the claim. The Landlord states that the \$160.00 amount for general cleaning is reduced to \$120.00 based upon the invoice submitted. The Landlord is amending the \$150.00 carpet cleaning cost by lowering it to \$144.48 and the \$60.00 wall repair costs is lowered to \$50.40.

The Landlord also stated that the evidence package submitted by the Landlord has not been claimed from Canada Post by the Tenant. The Tenant confirms this. The Landlord states that the evidence package was sent by Canada Post Registered Mail. I find that as this evidence was properly served that it will form part of the evidence to be considered in this hearing.

### Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain all or part of the security deposit?

### Background and Evidence

Both parties have attended the hearing by conference call and have both made detailed reference to the Tenant's evidence package. I find that the Tenant has been properly served with the notice of hearing and the Landlord's evidence package as stated above. The Landlord has also been properly served with the Tenant's evidence package.

This Tenancy began on October 1, 2009 on a month to month basis as shown in the submitted copy of the signed tenancy agreement. The monthly rent is \$1,500.00 payable on the 1<sup>st</sup> of each month and a security deposit of \$450.00 was paid on September 3, 2009.

The Landlord is seeking to claim \$96.00 for 2 days that the Tenant over-held the rental unit. The Landlord states this amount is based upon the total rent due (not the Tenant's subsidized amount) of \$1,500.00 divided by 31 days to equal \$48.00 per day. The Landlord states that the subsidized amount for over holding the property is not recoverable from the government. The Tenant disputes this, but states that the majority of moving was done on August 31, 2011, but that he did not return the keys to the Landlord until September 2, 2011. The Landlord confirms this stating that the condition inspection report for the move-out and the photographs submitted was completed on September 2, 2011.

The Landlord is also seeking \$80.00 for recovery of rubbish removal. The Landlord states that the Tenant left various appliances such as a washer, dryer, dishwasher, futon mattress and frame. The Landlord relies on the condition inspection report for the move-out and the photographs taken on September 2, 2011. The Tenant disputes this, but concedes leaving the futon mattress and frame. The Tenant states that he retrieved the dishwasher and that the washer and dryer was the property of the complex. The Landlord confirms that that Tenant returned on September 2, 2011 to retrieve the dishwasher. The Landlord disputes the Tenant's claim by stating that the Landlord does not provide a personal washer or dryer to any Tenants in any of their buildings. The Tenant states that he obtained the washer and dryer from the property manager who gave him access to remove it from another rental unit. The Landlord states that there is a minimum \$20.00 fee from the dump to accept a mattress.

The Landlord is seeking to claim \$120.00 for general cleaning. The Landlord relies on the completed condition inspection report for the move-in and the move-out. The Tenant disputes the report stating that it is noted by him on the report that the "apartment is very more cleaner than when I moved in." Both parties have submitted photographic evidence for this dispute. The Landlord states that his photographs support in detail his claims. The Landlord states that the Tenant's photographs do not provide any details in support of the Tenant's claims. The Landlord also states that some of the photographs in the Tenant's evidence show holes in the walls requiring repairs.

The Landlord is seeking to claim \$144.48 for professional carpet cleaning costs. The Landlord states that it was a condition of the tenancy agreement for the Tenant to have the rental professionally cleaned. The Landlord cannot provide the details for the condition in reference. The Tenant disputes this stating that there is no clause and that the rental unit does not require a professional cleaning. The Tenant states that it was reasonably cleaned by him.

The Landlord is also seeking \$50.40 (\$45.00 plus 12%HST) for wall repairs. The Landlord states that multiple holes were found in the walls. The Landlord relies on the condition inspection report as well as both their own and the Tenant's photographic evidence which clearly show holes. The Landlord states that patching the holes is required and as such the walls had to be repainted to match. The Landlord has submitted a copy of the professional painting invoice, but states that they are only seeking that portion of the invoice for the wall repairs. The Tenant disputes this charge, but admits in his direct testimony and makes reference to the holes in the his photographs stating that they were shelves that he removed and that he did not patch the holes when the tenancy ended.

### Analysis

I find that both parties have each been properly served with the notice of hearing and evidence packages based upon their undisputed testimony.

I accept the Landlord's undisputed evidence that possession was not returned to the Landlord until September 2, 2011, which was confirmed by the Tenant. The Landlord has established their claim of \$96.00 for the Tenant in over holding the rental unit.

Based upon the documentary evidence and the direct testimony of both parties, I find on a balance of probabilities that the Landlord has established the claim for \$80.00 in rubbish removal of the furniture and appliances.

I find on a balance of probabilities that the Landlord has established a claim for general cleaning of \$120.00. I prefer the evidence of the Landlord over that of the Tenant. The Tenant's photographs provide no value for his dispute.

I find based upon the testimony of both parties that the Landlord has failed in this portion of this claim. The Landlord's application for \$144.48 for professional carpet cleaning is dismissed.

I accept the Landlord's undisputed testimony for the wall repairs. I find based upon the Tenant's own direct testimony that there were holes and that they were patched. I find that after patching the Landlord must repaint the walls to match. The Landlord has established his claim for the \$50.40 claim.

The Landlord has established a total monetary claim of \$346.40. I find that the Landlord is entitled to recovery of the \$50.00 filing fee. I order that the Landlord may retain

\$396.40 from the \$450.00 security deposit in satisfaction of this claim. The Landlord is to return the remaining \$53.60 security deposit to the Tenant.

### Conclusion

The Landlord's application is granted.

The Landlord may retain \$396.40 from the \$450.00 security deposit.

The Landlord shall return \$53.60 remaining from 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: December 02, 2011.

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Residential Tenancy Branch