

## **DECISION**

Dispute Codes      MND, MNSD, FF

### Introduction

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

Both parties attended the hearing by conference call and gave testimony. As both parties have attended the hearing and have made detailed reference to the evidence submitted by the other, I am satisfied that each has been properly served with the notice of hearing and evidence packages.

### Issue(s) to be Decided

Is the Landlord entitled to a monetary order for damage to the unit?

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

### Background and Evidence

Both parties agreed that the Tenancy began on June 1, 2011 and ended on October 31, 2011. The monthly rent was \$1,025.00 and was payable on the 1<sup>st</sup> of each month. A security deposit of \$512.50 was paid on May 1, 2011.

The Landlord is seeking recovery of \$22.50 for the cleaning of the balcony and balcony windows. The Landlord has provided a invoice issued by the Landlord for this amount. The Tenant disputes the claim, but admits that she did not clean the balcony, but that she did clean the balcony windows on both sides. The Landlord relies on an incomplete condition inspection report for the move-out which was not signed by either party. The condition inspection report for the move-in was completed and signed by both parties.

The Landlord is seeking recovery of \$224.00 for the painting of 1 ½ bedrooms and the hallway. The Landlord has submitted an invoice from Trif Interior Exterior Finishing. The Landlord states that there were numerous nail holes left in the two bedrooms and the hallway. The Tenant disputes this stating that there were only two shelves, one in each bedroom. Each shelf required 4 holes and the Tenant stated that she filled them with filler. The Tenant further states that she has only lived in the unit for approximately

5 months. The Tenant also states that there was no damage in the hallway. The Landlord is unable to provide any details of the nail holes.

The Landlord is seeking recovery of \$99.68 for professional carpet cleaning. The Landlord has submitted a copy of the invoice from Flying Carpet & Furnace Cleaning for various marks on the carpet. The Tenant stated that she has no problem with this cost and has conceded that this amount is owing to the Landlord.

The Landlord is seeking recovery of drape cleaning costs of \$65.00. The Landlord has submitted an invoice for this from the Landlord. The Tenant disputes this cost by stating that if she were to perform this function in the laundry room it would just cost her \$4.00. The Landlord states that cleaning was done in the building laundry room but required staff time.

The Landlord is seeking recovery of \$15.00 for cleaning materials, but cannot specify what these are in relation to. The Landlord has withdrawn this portion of the claim.

### Analysis

The onus or burden of proof is on the party making the claim, in this case the Landlord is responsible having made the application. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. I find that without supporting evidence, the Landlord has failed to establish a claim for recovery of the painting for \$224.00 and the drapery cleaning for \$65.00. The Tenant has admitted to causing 4 nail holes in the two bedrooms which she filled the holes, but did not paint. The Tenant has also stated that she does not dispute the cleaning, but the cost being sought by the Landlord. As such, I find that the Landlord is entitled to a combined nominal award of \$175.00 for both these claims.

As for the claim for balcony and window cleaning for \$22.50, in the absence of any other supporting evidence from the Landlord. I find based upon the Tenant's direct testimony that, "I did not clean the patio." The Landlord has established a claim only for

the patio. The Landlord has not established a claim for the total amount claimed. I award a nominal award of damages to the Landlord for \$10.00.

The Tenant has conceded the carpet cleaning cost of \$99.68, as such the Landlord has established a claim for this amount.

The Landlord has established a total monetary claim of 284.68. The Landlord is entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain \$334.68 from the \$512.50 security deposit in satisfaction of this claim. The Landlord is ordered to return the \$177.82 outstanding to the Tenant.

### Conclusion

The Landlord may retain \$334.68 from the security deposit.

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: January 31, 2012.

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Residential Tenancy Branch