

# **Dispute Resolution Services**

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Residential Tenancy Branch Office of Housing and Construction Standards

# DECISION

## Dispute Codes

MND, FF

### Introduction

This was an application by the landlord for a monetary order under the *Residential Tenancy Act* (the Act) for damage to the rental unit for alleged damage to an entry door, and costs for dirty carpet and blinds. The onus is on the applicant landlord to prove the claims in this application, on a balance of probabilities. I accept the landlord's oral testimony during the hearing that they are applying to retain the claimed amount from the security deposit.

Both parties participated in the hearing with their submissions, document evidence and affirmed testimony during the hearing. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

### Preliminary matters

The style of cause for this matter has been amended to reflect the actual names of participant parties.

### Issue(s) to be Decided

Is the landlord entitled to the monetary amounts claimed?

### **Background and Evidence**

The undisputed relevant testimony in this matter is that the tenancy started August 01, 2009 and ended November 30, 2011. At the start of the tenancy the landlord collected a security deposit in the amount of \$497, and the parties also conducted a move in inspection. At the end of the tenancy the parties conducted an end of tenancy inspection but did not come to agreement in respect to how the security deposit would

be administered. After the tenancy ended the landlord returned \$237 of the original security deposit.

The landlord is claiming that during the tenancy the rental unit's entrance door casing (the structural framing around the door into which the door closes) incurred damage requiring repair or replacement of the casing. The landlord claims the casing of the door was cracked. The landlord determined that in order to minimize the loss they chose to expend their own labour and some repair materials (glue, nails, clamping) and remediated the door casing, at a claimed labour cost of \$100. The parties disagree on how the crack in the casing occurred, but are in agreement the casing suffered a crack in the middle of the casing extending from the deadbolt upward to the top of the door casing. The tenant provided a photograph of the damage. The landlord claims it had to have occurred as result of a "forced entry" situation, by applying pressure to the door, allegedly from an incident in September 2011 which involved attendance by Police and a consequent request to change the lock. The tenant claims they think the crack likely resulted from an improper installation of a new lock and that as a result the door casing had to be subjected to additional strength to lock and unlock the door. The tenant claims they consulted a lock expert whom agrees with their assessment of how the crack occurred. The tenant did not provide supporting evidence from the lock expert.

The landlord claims that at the end of the tenancy the carpets in the rental unit were dirty and they were cleaned by the landlord's carpet cleaning contractor at a cost of \$130. The tenant disagrees they are responsible for the carpet cleaning, in part, as they paid to have the carpets cleaned when they moved in.

The landlord also claims that the blinds in the rental unit were left unclean ("dusty). The parties agree they conducted the move out inspection and viewed the blinds together. The tenant disagrees with the landlord's assessment of the blinds and claims the blinds were left clean. The landlord claims their labour of \$30.

#### <u>Analysis</u>

Under the *Act*, the party claiming the damage or loss bears the burden of proof on a balance of probabilities. Moreover, the applicant must satisfy each component of the following test:

- 1. Proof the damage or loss exists,
- 2. Proof the damage or loss were the result, solely, of the actions or neglect of the other party in violation of the Act or agreement

- 3. Verification of the amount required to compensate for the claimed loss or rectify the damage.
- 4. Proof that the claimant followed section 7(2) of the *Act* by taking reasonable steps to mitigate or minimize the loss or damage.

In addition, when a claim is made by the landlord for damage to property, the normal measure of damage is the cost of repairs or replacement. The onus is on the tenant to show that the expenditure is unreasonable.

Therefore, in this matter, the landlord bears the burden of establishing their claim on the balance of probabilities. The claimant must prove the existence of the damage or loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. Finally, the claimant must show that reasonable steps were taken to address the situation and to mitigate the damage or losses that were incurred.

The landlord relies on their determination that the tenant caused the purported damage. The tenant relies on their argument that the landlord's changing of the lock caused the eventual damage.

On the face of the evidence, I find the landlord has not met the test for damages and loss respecting the *carpet cleaning* or cleaning the *blinds*. The landlord has not provided evidence to support these claims of the loss or the need for the costs incurred. As a result, **I dismiss** the landlord's application for costs of carpet cleaning and blind cleaning, without leave to reapply.

On preponderance of the evidence and on a balance of probabilities, I find the landlord's account of how the damage to the door casing occurred to be the most likely and the more reasonable account of this occurrence. I accept the landlord's testimony that pressure had to be applied to cause the crack and that this pressure likely occurred as a result of forcing the door open. I do not accept that the actions of locking and unlocking the door were sufficient to cause the crack to be as severe as portrayed by the photographic evidence. I further accept the landlord's testimony that they minimized the loss by repairing, versus replacing, the door casing. The Residential Tenancy Act Section 32 and Residential Tenancy Regulations *Schedule* Section 8 both address a tenant's responsibility to repair damage for damage to the rental unit by the tenant or a person permitted on the residential property by the tenant. I grant the landlord their claim of **\$100** for damage to the entrance door, without leave to reapply. As the

landlord was successful in their claim I grant the landlord recovery of the filing fee of **\$50**, for a total award of **\$150**. As the landlord retained \$260 from the tenant's security deposit, it is only appropriate that I return the balance of the landlord's retention to the tenant, in the amount of \$110.

#### **Conclusion**

The landlord's claim **is granted** in part, without leave to reapply.

**I Order** that the landlord retain \$150 from the tenant's security deposit and return to the tenant the balance of \$110. To perfect this Order I grant the tenant a Monetary Order under Section 67 of the Act for the amount of **\$110**. If necessary, this order may be filed 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: February 20, 2012

Residential Tenancy Branch