



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNSD, FF

### Introduction

This hearing was convened by way of conference call in response to an application made by the landlord for a monetary order for damage to the unit, site or property; for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of this application. The landlord also filed an amended application prior to the commencement of the hearing and provided evidence of having sent that application to the tenant on May 17, 2012 by registered mail.

An agent for the landlord company attended the hearing, gave affirmed testimony and provided evidence in advance of the hearing. However, despite being served with the Landlord Application for Dispute Resolution and notice of hearing documents by registered mail on May 4, 2012, the tenant did not attend. The landlord's agent provided evidence of having sent the documents on that date and in that fashion and I find that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence and testimony provided has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

- Is the landlord entitled to a monetary order for damage to the unit, site or property?
- Is the landlord entitled to keep all or part of the pet damage deposit or security deposit in full or partial satisfaction of the claim?

### Background and Evidence

The landlord's agent testified that this fixed term tenancy began on December 1, 2011 was to expire on November 30, 2012. The parties ultimately came to a mutual

agreement on March 25, 2012 to end the tenancy on April 30, 2012. Rent in the amount of \$800.00 per month was payable in advance on the first day of each month, and there are no rental arrears. On November 30, 2011 the landlord collected a security deposit from the tenant in the amount of \$400.00 which is still held in trust by the landlord. On May 3, 2012, the landlord acknowledges receiving the tenant's forwarding address by way of text message.

The landlord's agent further testified that the rental unit is an apartment style condominium unit, and the tenant caused a lot of disturbances during the tenancy. The landlord received complaint after complaint for the tenant and guests break-dancing in the common hallways, late night parties, fighting causing damages, blood in the parking stall and are responsible for a missing fire extinguisher and hoses.

The caretaker spoke to the tenant and the tenant agreed to terminate the tenancy and told the landlord's agent to keep the security deposit for the damages caused, although the landlord did not receive that direction in writing.

The landlord claims the following damages which the landlord's agent testified were caused by the tenant and the tenant's guests, and provided the following evidentiary material to substantiate the claim:

- A letter dated March 1, 2012 from the strata corporation to the owner requesting payment of a portion of an invoice in the amount of \$84.00 for the cost to replace the fire extinguisher; a copy of an invoice dated December 21, 2011 in the amount of \$1,123.36 for 5 extinguishers and labor;
- A letter dated January 25, 2012 from the strata corporation to the owner requesting payment in the amount of \$274.40 and \$179.09 for the cost to repair a door damaged by the tenant; a copy of each of those invoices;
- A letter dated February 21, 2012 from the strata corporation to the owner requesting payment in the amount of \$442.40 for the cost to repair door damage to the main entrance door that was caused by the tenant; a copy of the corresponding invoice dated January 16, 2012;
- A letter dated April 18, 2012 from the strata corporation to the owner requesting payment in the amount of \$1,646.40 for labor and materials required to repair another door and the drywall that was damaged by the tenant; a copy of the corresponding invoice dated April 5, 2012. The total amount due is blackened out on the receipt and a new total of \$1,597.76 is handwritten on the invoice;
- A letter dated May 2, 2012 from the strata corporation to the owner requesting payment of 4 fines in the amount of \$200.00 each for excessive noise, music levels, partying, broken glass and blood trailed through the building and stating

that various complaints were received by the strata corporation for the infractions all caused by the tenant or the tenant's guests;

- A letter dated May 15, 2012 from the strata corporation to the owner requesting payment in the amount of \$1,503.60, being the portion of the attached invoice that the owner is responsible for to replace two floor mats for the building; a copy of the corresponding invoice dated April 30, 2012 in the amount of \$3,007.20.

The landlord claims damages as against the tenant in the amount of \$4,881.25 and recovery of the \$50.00 filing fee for the cost of this application.

### Analysis

In order to be successful in a claim for damages, the onus is on the claiming party to satisfy the 4-part test for damages:

1. That the damage or loss exists;
2. That the damage or loss exists as a result of the other party's failure to comply with the *Act* or the tenancy agreement;
3. The amount of such damage or loss; and
4. What efforts the claiming party made to mitigate, or reduce such damage or loss.

I have reviewed the evidentiary material provided by the landlord and find that the landlord has established all elements in the test for damages. I further find that the landlord has established that the landlord has mitigated any further loss by agreeing to end the tenancy earlier than the end of the fixed term.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee for the cost of this application.

I order the landlord to keep the security deposit in the amount of \$400.00 and I grant a monetary order in favor of the landlord for the difference of \$4,531.25.

### Conclusion

For the reasons set out above, I hereby grant a monetary order in favor of the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$4,531.25.

This order is final and binding on the parties and may be enforced.

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: July 05, 2012.

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Residential Tenancy Branch