



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MND; MNR; MNSD; FF

### **Introduction**

This is the Landlord's application for a Monetary Order for unpaid rent, damages and compensation for damage or loss under the Act, regulation or tenancy agreement; to apply the security deposit and pet damage deposit in partial satisfaction of its monetary award; and to recover the cost of the filing fee from the Tenants.

The parties gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The ~~Landlord~~ **Tenant**'s agent EW testified that on July 6, 2012, the Notice of Hearing documents were mailed to both of the Respondents, care of EW, by registered mail to forwarding address that EW provided.

EW stated that the Respondent AP was his mother, who passed away on June 4, 2012. EW testified that his mother died intestate and that the Court has not yet appointed anyone to administer her estate. He stated that the Respondent BS never paid any rent to the Landlord, that he did not sign the tenancy agreement, and that he had moved from the rental unit seven months before his mother died. EW submitted that BS was not a tenant under the tenancy agreement. The Landlord's agent stated that she did not have knowledge about who paid the rent because she started managing the rental unit on February 26, 2012. She acknowledged that BS did not sign the tenancy agreement, although he was named as a "tenant" on the first page of the document.

Based on the parties' testimony and the documentary evidence provided, I find that the Landlord failed to provide sufficient evidence that BS was a tenant under the tenancy agreement. Therefore, the Landlord's application against the Respondent BS was dismissed without leave to reapply.

### **Preliminary Matters**

It was determined that rent was paid for the month of June, 2012, and that the Landlord was seeking compensation for loss of revenue for the month of July, 2012. Therefore the Landlord's application for unpaid rent is dismissed.

### **Issues to be Decided**

- Is the Landlord entitled to compensation for loss of revenue for July, 2012, for the cost of cleaning the rental unit and shampooing the carpets?
- May the Landlord apply the security and pet damage deposit towards their monetary award?

### **Background and Evidence**

This tenancy began on December 1, 2010. At the end of the tenancy, monthly rent was \$735.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$360.00 and a pet damage deposit in the amount of \$200.00.

A move out Condition Inspection Report was completed on June 9, 2012, a copy of which was provided in evidence. EW attended on behalf of the Tenant and gave written permission for the Landlord to deduct the cost of shampooing the carpet and cleaning the rental unit from the security deposit. EW did not provide written permission that the Landlord could apply the remainder of the security and pet damage deposit towards loss of revenue for the month of July, 2012.

The Landlord's agent stated that the Landlord advertised the rental unit in a popular on-line site. She provided copies of postings in evidence. She stated that the Landlord was not able to re-rent the rental unit for July 1, 2012.

The Landlord provided copies of invoices for the cost of shampooing the carpets and cleaning the rental unit. The Landlord's application indicates that the Landlord seeks \$60.00 for the cost of general suite cleaning and \$89.00 for the cost of shampooing the carpets.

### **Analysis**

This is the Landlord's claim for damage or loss under the Act and therefore the Landlord has the burden of proof to establish its claim on the civil standard, the balance of probabilities.

To prove a loss and have the Tenant pay for the loss requires the Landlord to satisfy four different elements:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the Tenant in violation of the Act;

3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
4. Proof that the Landlord followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

I find that the Landlord has provided sufficient evidence to prove its claim with respect to the cost of cleaning the rental unit (\$60.00) and shampooing the carpets (\$89.00), for a total of **\$149.00**.

I find that the Landlord provided insufficient evidence to prove its claim for loss of revenue for the month of July, 2012. I find that the Landlord was aware on June 9, 2012, that the Tenant AP had died. Based on the copies of the on-line postings provided by the Landlord, I find that the Landlord did not provide sufficient evidence that it had advertised the rental unit at the earliest opportunity. Therefore I find that it failed to provide the 4<sup>th</sup> part of the test above.

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlord may apply the security deposit in satisfaction of the Landlord's monetary award. No interest has accrued on the security deposit.

The Landlord accepted EW as agent acting for the Tenant AP. EW gave written permission that the Landlord could apply a portion of the security deposit towards the cost of cleaning the carpets and cleaning the rental unit and therefore I find that the Landlord need not have filed an Application for Dispute Resolution for those claims. The Landlord has not been successful in its application for loss of revenue. Therefore, I order that the Landlord bear the cost of the filing fee.

The Landlord may deduct the amount of **\$149.00** from the security deposit of \$360.00, leaving a balance remaining of \$211.00.

I order that the Landlord provide the balance of the security deposit (\$211.00) and the pet damage deposit (\$200.00), together totaling **\$411.00**, to the Estate of AP forthwith.

### **Conclusion**

The Landlord may apply **\$149.00** of the security deposit in satisfaction of its monetary award.

I hereby provide EW a Monetary Order against the Landlord in the amount of **\$411.00**, payable to the Estate of AP, representing return of the balance of the security and pet damage 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: September 17, 2012.

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Residential Tenancy Branch