



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

MNSD, FF

### **Introduction**

This hearing was convened in response to an application under the Residential Tenancy Act (the Act) by the landlord dated July 12, 2012 requesting a Monetary Order for damages to the unit. If successful the landlord sought to keep a portion of the security deposit in satisfaction of the monetary claims for damages: in part for an amount agreed by the parties; and an amount for damages to which the parties did not agree, as well as recovery of the filing fee for this application.

The hearing was conducted by conference call. Both parties attended the hearing and were given opportunity to participate in the conference call hearing, present all relevant evidence and relevant testimony in respect to their claims and to make relevant prior submissions to the hearing. The tenant acknowledged receiving the document evidence of the landlord. Only the landlord submitted document evidence to this matter. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

The tenant raised a preliminary matter - stated as one of "jurisdiction" - in respect to not having been provided the landlord's condition inspection report within the requirements provided in the Residential Tenancy Regulation. The tenant asserted the landlord's application must be dismissed. The tenant was advised that their preliminary objection does not go to jurisdiction but their argument would be considered as part of their evidence. The hearing proceeded on the merits of the landlord's claims.

### **Issue(s) to be Decided**

Is the landlord entitled to a monetary order in the amount claimed?

### **Background and Evidence**

The undisputed relevant testimony and evidence in this matter is that the tenancy was for 1 year starting in 2011 and ending June 28, 2012. Rent payable was \$2460 per month. At the outset of the tenancy the landlord collected a security deposit of \$1230.00 which the landlord holds in trust. At the start of the tenancy the parties conducted a mutual *start of tenancy* inspection and at the end of the tenancy the parties conducted a mutual *end of tenancy* inspection, and both inspections were recorded on the requisite condition inspection report (CIR) - submitted into evidence. The parties agreed with the results of the *start of tenancy* inspection. At the end of the tenancy the parties agreed, in part, as to the list of deficiencies (*damages*) mutually identified at the inspection and recorded in the CIR. At the same time, the tenant agreed with the landlord's pre-estimate for carpet cleaning, curtain cleaning, light bulb replacement, and all other identified / required cleaning of the rental unit in the amount of \$249.20 (reflected in the CIR as \$250). The parties did not come to agreement respecting the landlord's pre-estimate/remedy for the mutually identified issues resulting from the removal of, "40+ florescent stickies" in the *children's* bedroom textured ceiling. The balance of the evidence is in dispute.

The landlord submitted that they proceeded to *returning the suite to the conditions the tenant received it in; excluding what the (landlord) considers normal wear and tear*. The landlord submitted their claim as follows:

- carpet cleaning	\$201.60	
- painting	\$380.00	inclusive of textured ceiling(s)
- curtain cleaning	\$ 60.00	
- bulb replacement	\$ 20.00	
- cleaning	<u>\$120.00</u>	
	<b>\$782.40</b>	

The landlord provided into evidence a 2 page internal deficiency list explained as a worksheet for their staff – in support of their claim for cleaning. The landlord also provided invoices for carpet cleaning and for painting in the rental unit. The tenant argued that the carpet cleaning invoice included an extra charge for bubble gum removal – for which they were not responsible as none of their family chews bubble gum.

The tenant testified that subsequent to the *start of tenancy* condition inspection they did not receive a copy of the CIR within 7 days, and received a copy of the final and completed CIR for the first time July 18, 2012. The landlord testified that to the best of their knowledge the tenant was provided a copy of the CIR at the outset of the tenancy, as this is their practice, and a completed copy was sent to the tenant upon receiving their forwarding address, and in support of their claim for damages.

The tenant also testified that at the outset of the tenancy the rental unit was in refurbished condition without issues and they agreed with the CIR and signed it. The tenant claims they also signed the CIR at the end of the tenancy in agreement with the CIR - Box Z of the form, and acknowledging responsibility for the claimed damages in Box Z, but not in agreement with the landlord's pre-estimate cost for remediation of the ceiling in the child's bedroom. The tenant agreed only to a deduction of \$250.00 from their security deposit. The tenant strongly asserted that despite their signatures on the CIR, I should not interpret them as their agreement with the contents of the *end of tenancy* portion of the preceding pages of the same document, or with Box 1. of the document. But rather, their signatures should be interpreted as acknowledgement with the landlord's ancillary security deposit reconciliation form, titled Security Deposit Deductions - submitted into evidence.

### **Analysis**

On preponderance of the evidence in this matter I have arrived at the following Decision.

I find there is no proof supporting the tenant's allegation they did not receive a copy of the start of tenancy CIR, and I accept the landlord's evidence that it is their practice to provide a copy of a CIR. The tenant did not dispute the condition of the rental unit at the outset of the tenancy, nor do they now dispute the contents of the *start of tenancy* CIR. I find the CIR has been completed in accordance with Part 3 of the Residential Tenancy Regulations and is evidence of the state of repair and condition of the rental unit on the inspection dates herein.

I find that both parties are in agreement with the landlord's claims except the claim for remediation or painting of the child's bedroom textured ceiling.

I find the landlord's claim for curtain cleaning and other cleaning - compared to their pre-estimate on June 28, 2012 - are extravagant. I find that the landlord's internal deficiency list takes into account more than what is reflected on the CIR – for example, there is no mention of an issue with the cleanliness of the laundry machines in the CIR. As a result, I grant the landlord **\$70.00** in full satisfaction for curtain and general cleaning related claims, without leave to reapply.

On balance of probabilities, I prefer the landlord's evidence that the removal of the "40+ florescent stickies" from the *children's* bedroom textured ceiling caused a noticeable change in appearance requiring some repainting. I find the landlord's evidence reflects the landlord was invoiced for more painting than was identified by the CIR. For example, there is no mention in the CIR or internal deficiency list for repainting *2 feature walls or closets*. I accept the landlord's claim for repainting the children's bedroom textured ceiling and 2 holes in the living room ceiling in the set amount of \$100.00 plus tax, or **\$114.00**, without leave to reapply.

I find the landlord's claim for professional carpet cleaning is not unreasonable; however, in the absence of corroborating evidence of *bubble gum* in the carpeting, I deduct \$10.00 from the landlord's claim for carpet cleaning, and I grant the landlord **\$190.40** inclusive of tax, without leave to reapply. I find all other claims relate to reasonable wear and tear, and are therefore dismissed.

As the landlord was partly successful in their claim, I grant the landlord recovery of the filing fee in the amount of **\$50.00**.

The landlord's total entitlement is for **\$424.40**. The security deposit will be offset from the award made herein in accordance with Section 72(2) of the Act.

### **Conclusion**

**I Order** that the landlord may retain \$424.40 of the security deposit held in full and final satisfaction of the landlord's claims, and **I Order** the landlord to return the balance of \$805.60 to the tenant utilizing a service method described in Section 88 (c), (d) or (f) of the Act [*service of documents*] or give the balance of the deposit personally to the tenant.

I grant the tenant a Monetary Order under Section 67 of the Act for the amount of **\$805.60**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

This Decision is final and binding on both parties.

*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: October 01, 2012

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Residential Tenancy Branch