



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for a monetary order for unpaid rent or utilities; for a monetary order for damage to the unit, site or property; and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the conference call hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on September 13, 2012, the tenant did not attend. The landlord testified to serving the documents on that date and in that manner, and provided proof of the registered mail package, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*. The line remained open while the phone system was monitored for 10 minutes and the only participant who joined the conference call was the landlord.

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

### Issue(s) to be Decided

Has the landlord established a monetary claim as against the tenant for unpaid rent or utilities?

Has the landlord established a monetary claim as against the tenant for damage to the unit, site or property?

### Background and Evidence

The landlord testified that this month-to-month tenancy began on February 1, 2012 and ended on August 31, 2012. Rent in the amount of \$700.00 per month was payable in advance on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlord

collected a security deposit from the tenant in the amount of \$350.00 and no pet damage deposit was collected. The security deposit is still held in trust by the landlord.

The landlord further testified that the tenant used a barbeque on the deck of the rental unit, which was a brand new unit. The landlord told the tenant that it had to be removed, and the tenant complied, however after the tenant had moved out of the rental unit the landlord discovered that the barbeque had damaged the deck and siding. The landlord provided photographs to substantiate that testimony and testified that the tenant had hidden the damage with large boxes that remained on the deck after the tenant had departed. The boxes also contained printer wires, empty pizza boxes and other debris which the landlord had to remove from the deck and dispose of by way of 2 trips to the local landfill. The landlord claims \$10.00 for each of the 2 trips as the cost of using the landfill as well as \$40.00 for the landlord's time and gasoline. No receipts have been provided. The landlord also claims \$350.00 for the cost to remove and replace the siding and "J" trim on the outside of the house, \$90.00 for cleaning the rental unit, and \$671.00 being an estimate for the cost of removing the French doors which won't be completed until the spring. The landlord is still waiting for the contractor to confirm the amount. A list of damages and the estimated costs was provided for the hearing, however the landlord testified that those amounts were estimates only at the time the landlord filed the Application for Dispute Resolution.

A move-in condition inspection report had been completed by the parties at the commencement of the tenancy and a copy was provided for this hearing. It confirms that the rental unit was brand new at the commencement of the tenancy and it is signed by both parties and dated January 27, 2012. The landlord did not complete the move-out portion because the tenant did not show up for the inspection despite being offered at least two opportunities to participate. No evidence of those opportunities has been provided.

On August 1, 2012 the tenant gave the landlord notice to vacate the rental unit effective August 31, 2012. The rent was usually paid by cheque and the cheque left in the shared laundry area for the landlord to retrieve. The cheque left for the landlord for the month of August, 2012 was in the amount of \$350.00, and the landlord testified that it was the landlord's belief that the tenant only paid half of the rent intending that the landlord would keep the security deposit to cover the other half of the rent. The landlord stated that the tenant was from Ontario and that's how landlords and tenants deal with security deposits in that province. Further, the landlord received the tenant's forwarding address in writing on August 31, 2012, and the landlord asked to keep the security deposit for the unpaid portion of August's rent.

The landlord requested, and was permitted to provide receipts after the hearing concluded, and the landlord did so, but also completed the move-out condition inspection report and provided that document after the hearing was concluded.

### Analysis

In the circumstances, I accept the testimony of the landlord that the tenant failed to pay the landlord the full amount of rent for the last month of the tenancy, and the landlord is entitled to a monetary order for the other half, or \$350.00.

With respect to the damages claimed by the landlord, I have reviewed the move-in condition inspection report and the photographs, and I agree that the landlord has established that the damage exists and did not exist at the outset of the tenancy. I cannot accept the move-out condition inspection report because it was completed after the hearing concluded and in the absence of the tenant. Further, in order to be successful in a claim for damages, the landlord must be able to satisfy 2 other elements: the amount of such damage or loss; and what efforts the landlord made to mitigate, or reduce such damage or loss.

The landlord has not provided receipts with respect to the 2 trips to the landfill, and I find that a claim for \$30.00 for the two trips is reasonable. The landlord did not provide any testimony or evidence as to the amount of gasoline the landlord used to make those trips or how far the landlord had to travel to the landfill. Therefore, I find that \$30.00 is reasonable in the circumstances.

The landlord was also given an opportunity to provide evidence of the costs associated with the damaged deck, and has provided an invoice in the amount of \$92.98. The landlord has not provided me with evidence of any further costs, and I decline to order further costs for that reason.

The landlord requested a monetary order for cleaning the rental unit in the amount of \$90.00, however, the landlord has not provided any evidence to substantiate that claim. A tenant is required to leave a rental unit reasonably clean. If a landlord does more cleaning in order to have a rental unit pristine for future tenancies, the landlord is entitled to do so, but the tenant is not responsible for future tenancies, and the landlord's application for a monetary order for cleaning is hereby dismissed.

In summary, I find that the landlord has established a claim as against the tenant for \$350.00 in unpaid rent, \$30.00 for 2 trips to the landfill, and \$92.98 for the damaged deck. Since the landlord has been partially successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee for the cost of the application.

The landlord currently holds a security deposit in the amount of \$350.00 which I find should be set off from the monetary order awarded to the landlord, and I order the landlord to keep the security deposit in partial satisfaction of the claim and I grant the landlord a monetary order for the difference in the amount of \$172.98.

Conclusion

For the reasons set out above, I hereby order the landlord to keep the \$350.00 security deposit in partial satisfaction of the landlord's claim, and I hereby grant the landlord a monetary order pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$172.98.

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: December 05, 2012.

---

Residential Tenancy Branch