



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      LANDLORD: MND, FF  
TENANT: MNSD, FF

### Introduction

This hearing dealt with cross applications for Dispute Resolution filed by both the Landlord and the Tenants.

The Landlord filed seeking a monetary order for compensation for damage to the unit, site or property and to recover the filing fee for this proceeding.

The Tenant filed for the return of the security deposit and to recover the filing fee for this proceeding.

Service of the hearing documents by the Landlord to the Tenants were done by registered mail on July 16, 2014, in accordance with section 89 of the Act.

The Tenants did not attend the hearing. Consequently as the Tenants did not provide any testimony or evidence at the hearing to support the application the Tenants' application is dismissed without leave to reapply.

### Issues to be Decided

Landlord:

1. Are there damages to the unit, site or property and if so, how much?
2. Is the Landlord entitled to compensation for damages and if so how much?

### Background and Evidence

This tenancy started on September 1, 2011 as a fixed term tenancy with an expiry date of August 31, 2012 and then continued on a month to month basis. Rent was \$1,600.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$800.00 on August 10, 2011.

The Landlord said at the start of the hearing that no condition inspection reports were completed on move in or move out so the Landlord was unable to prove the condition of

the unit at the start or end of the tenancy. The Landlord also said that she did not submit paid receipts for the work done to repair the rental unit therefore the Landlord understood she did not prove an actual loss and she did not verify that loss with paid receipts for the work.

The Landlord said she thought she could make the application based on photographic evidence of pictures of the unit at the end of the tenancy and some quotes on the cost to do the work. The Landlord said her application was for damages in the amount of \$1,500.00 plus the filing fee of \$50.00.

### Analysis

Section 23 and 35 of the Act say that a landlord and tenant must do move in and move out condition inspections to establish the condition of the rental unit at the start and the end of the tenancy. If this is not done and there is no other acceptable evidence of the condition of the rental unit at the start and the end of a tenancy then the applicant cannot establish the amount of damage or if any damage was done to the rental unit. In this situation the Landlord has established there may have been damage to the rental unit, but the Landlord cannot prove what damage was caused in this tenancy. In determining a claim for damage or loss an applicant **must** establish four things in order to prove the claim. These requirements are:

1. Proof the damage or loss exists.
2. Proof the damage or loss happened solely because of the actions of the respondent.
3. Verify the actual amounts required to compensate for the claimed loss or to rectify the damage.
4. Proof that the claimant has taken steps to minimize the loss.

Although the Landlord has established there was damage to the unit the Landlord has not established that the unit was in poorer condition on move out than it was on move in. As well the Landlord has not provided any verification of the amounts to rectify the loss or damage he has applied for; therefore the Landlord has not established grounds to prove his claim. Consequently I dismiss the Landlord's claim for damage or loss based on lack of evidence to establish a loss or damage existed at the end of the tenancy and that the Landlord did not provide any evidence to verify the amount of that

loss or damage. I dismiss the Landlord's application for damages to the unit, site or property without leave to reapply.

As both parties were unsuccessful in this matter I order both parties to bear the cost of the filing fee of \$50.00 that both parties have already paid.

### Conclusion

The Tenants' application is dismissed without leave to reapply.

The Landlord's application is dismissed without leave to reapply.

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 22, 2014

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Residential Tenancy Branch