



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

MND, MNSD, FF

### **Introduction:**

The landlord has applied for resolution of a dispute in the tenancy at the above noted address, and requests a Monetary Order and an order to retain the security deposit.

### **Issues to be decided:**

I am asked to determine whether the tenant is liable for restoration work to the premises related to excessive moisture in the premises and resulting damage, and for payment of rent that had been waived by the landlord. If awarded, I am asked to order that the landlord retain the security deposit in partial satisfaction of such award.

### **Background and Evidence:**

This tenancy originated August 1, 2013. A security deposit was paid in the amount of \$500.00. Monthly rent was \$1,000.00, payable on the first day of each month. The tenancy ended April 30, 2014. In winter, the tenant began to experience significant moisture and condensation in the unit. The landlord was notified, who had investigations done and later had the carpet cleaned. Problems continued, and mold and mildew grew. Invasive restoration work was then initiated, and the landlord agreed to waive half of April's rent because of the disruption to the tenant's living space during this work. Reports now indicate no systemic failures or leakages to explain the high condensation, other than a notation that a dryer vent could be a contributing factor.

The landlord contends that no condensation issues existed in the premises prior to this tenancy, and that the reports indicate that the condensation must be the cause of an environment caused by the tenant in the premises, or high heat and high humidity in the winter months.

The landlord has now received a further bill for an emergency call out, and wishes to add that bill to the sum claimed as against the tenant.

The tenant provided a thorough review of the history of this tenancy. The tenant denies responsibility for the condensation, and contends that once problems were noticed, suggestions made to reduce the amount of condensation in the premises were followed. The tenant was inconvenienced by the condensation, and the restoration work, and accepted an offer of a rent reduction by the landlord. The tenant submits the reports do not conclusively say the tenant is at

fault for the condensation, but refer to contributing causes such as the dryer vent. The tenant does not agree that the claim should be amended to include the new bill of the landlord.

**Analysis:**

There are specific rules regarding the amendment of a claim, and these include a formal notice of amendment registered at the residential tenancy office, and provided in advance to the opposing party. In the absence of this process or the tenant's consent, I make no order to amend the claim. The landlord remains at liberty to file a new claim for any new sums (subsequent to the filing of this claim) alleged to be owed by the tenant to the landlord.

I need not review the entire history of this tenancy, as much is unrelated to the dispute at hand. The critical evidence that I accept, relevant to this claim, is:

1. There was no condensation problem in the unit prior to the start of this tenancy, suggestive that the heat and humidity environment created by the tenant has contributed to that problem;
2. The Action Glass report confirms that as of February 11, 2014, the tenant was boiling water in the unit, the tenant stated he liked things warm, and the blinds were drawn;
3. The Inspectright report makes it clear that the dryer vent has contributed to the condensation issue, a factor that was outside the tenant's control. The report also clarifies that other than the dryer vent, there are no other systemic problems with the plumbing system or other systems in the home that would cause such a high level of condensation in the unit. That report concludes that the extreme condensation conditions are due to very high humidity levels maintained within the suite.
4. The carpet was not new at the start of the tenancy, and the condition inspection report indicates the carpets were wrinkled;
5. The Paul Davis Systems invoice for restoration work totals \$3,063.54. Of this sum, the cost of new carpets is \$1,077.43.

I find that there are two causes for the high condensation in the unit during the winter. One was the tenant maintaining excessively high heat and humidity within his suite during the winter months, with insufficient ventilation. The other was the location of the dryer vent. I am unable to determine on the evidence the degree to which these factors contributed to the high condensation that caused the mold and other damage to the unit. I therefore assess each cause at 50%. Accordingly, I find that the tenant is 50% responsible for the level of the condensation, resulting in the restoration work.

I also note that the carpeting was not new at the start of the tenancy, and find that the tenant should not be liable for any depreciation to the carpet prior to the condensation problems. Again in the absence of better evidence as to the actual depreciated value of the carpet, I find that a 50% depreciation value is appropriate (equalling \$538.72). For purposes of assessing damages, this reduces the restoration bill from \$3,063.54 to \$2,524.82.

The tenant's 50% liability for the damage and cost or restoration is therefore determined to be \$1,262.41 (one half of \$2,524.82).

As to the reduction of the rent for April by \$500.00, this was an offer made by the landlord to the tenant, which the tenant accepted. There is no evidence at the time the offer was made, that it was an implied condition that this reduction of rent could be retracted if the tenant was found responsible for the damage and the ensuing disruption to the tenant's life. Further, the dryer vent was found to be a contributing factor to the high condensation. I do not have evidence as to whether the damage would have occurred as a result of the dryer vent issue alone, but if that were the case, there would be no grounds to waive the landlord's agreement to reduce the rent in any event, as there would have been disruption regardless. I therefore dismiss the claim to recover the \$500.00 of waived rent.

In summary, I find the tenant liable to pay the landlord the sum of \$1,262.41, plus the landlord's filing fee of \$50.00, for a total of \$1,312.41.

The landlord has applied for an order to retain the security deposit of \$500.00. As this sum is less than the award made, retention is appropriate.

**Conclusion:**

I order pursuant to section 38(1) that the full amount of the security deposit be retained by the landlord, in partial satisfaction of the monetary award noted above.

I further order that the remaining balance of the award due to the landlord, equalling \$812.41 be paid immediately by the tenant to the landlord.

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 11, 2014

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Residential Tenancy Branch

