



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding COUNTESS GARDENS INC DBA CEDAR GREEN APARTMENTS  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND, MNSD, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for damage to the rental unit pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant confirmed that the landlord served him with a copy of the landlord's dispute resolution hearing package and written evidence packages on May 15, 2014. The tenant also confirmed that the photographs included with the landlord's written evidence were of sufficient quality to enable him to view them. I am satisfied that the landlord served the above documents to the tenant in accordance with the *Act*.

At the commencement of the hearing, the tenant requested an adjournment because he had only recently been able to locate important paperwork for this hearing and had forgotten about the hearing date until very recently. The landlord did not agree to this very late request for an adjournment, noting that she was hoping to achieve closure on this matter after having applied for dispute resolution in May 2014. After considering the Residential Tenancy Branch's Rules of Procedure 6.4, I noted that the tenant was served with notice of this hearing over four months before the scheduled hearing date. During that time, the tenant did not submit any evidence of any type. Under these circumstances and as I did not accept the tenant's explanation for why an adjournment was necessary, I dismissed the tenant's request for an adjournment and proceeded to hear the landlord's application for dispute resolution.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for damage arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This periodic tenancy began on September 1, 2013. Monthly rent was set at \$760.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$380.00 security deposit paid on February 28, 2013.

The landlord provided undisputed written evidence and sworn testimony that the landlord agreed to allow the tenant to move to another of the landlord's rental units in another rental property on April 15, 2014. The tenant said that he vacated the second of the landlord's rental units by June 30, 2014.

The landlord's application for a monetary award of \$1,759.37 included the following items listed in the landlord's Monetary Order Worksheet entered into written evidence by the landlord:

<b>Item</b>	<b>Amount</b>
Carpet Replacement	\$1,399.10
Cleaning	263.97
Door Replacement	96.30
<b>Total Monetary Order Requested</b>	<b>\$1,759.37</b>

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to a final and binding resolution of all issues in dispute arising out of this tenancy under the following terms:

1. The tenant agreed to allow the landlord to retain his \$380.00 security deposit.
2. Both parties agreed that the monetary terms as outlined above constituted a final and binding resolution of the landlord's claim for a monetary award and furthermore both parties agreed that they would not commence any new initiative of any type to obtain a monetary award with respect to this tenancy.

Conclusion

In order to implement the terms of this settlement agreement, I order the landlord to retain the tenant's security deposit. No interest is payable on this deposit over this term.

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, 2014

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Residential Tenancy Branch

