



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MND, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit. Despite having been served with the application for dispute resolution and notice of hearing via registered mail, the tenant did not participate in the conference call hearing. The landlord was represented at the hearing by an agent, T.H.

At the hearing, T.H. asked to amend his claim to include a claim for \$15.00 as the cost of replacing a key to the lobby that was not returned by the tenant. While the landlord's evidence mentions the lobby key, it does not assign a value to the key or state that the replacement cost would be sought at the hearing. I find that the tenant had no notice of this part of the landlord's claim and I therefore decline to amend the application to include this claim.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background, Evidence and Analysis

The landlord's undisputed testimony is as follows. The tenancy began on June 1, 1997 at which time the tenant paid a \$275.00 security deposit. At some point during the tenancy, the tenant also paid a \$50.00 deposit for a transmitter which T.H. acknowledged that the landlord still has. The tenancy ended on July 31, 2014.

I address the landlord's claims and my findings around each as follows:

**Wall repair:** The landlord supplied an invoice showing that the following work was performed and paid for: (1) \$40.00 "to make good the ceiling and wall holes"; (2) \$60.00 "to make good and touch up the defects of the walls"; and (3) \$140.00 "to make

good the peeling washroom ceiling and to repaint the whole ceiling.” T.H. testified that there were 6- holes in the living room wall above the thermostat, 15-16 holes in the bedroom, 7 holes above the kitchen back splash and damage in the washroom where paint was flaking as a result of poor ventilation. T.H. stated that the bathroom did not have a fan and he was unsure of when the unit had last been painted. This is a tenancy which lasted for 17 years and there is no evidence that the walls or bathroom ceiling had been repainted during that time.

Residential Tenancy Policy Guideline #40 identifies the useful life of building elements and lists the useful life of interior paint as 4 years. In the absence of evidence showing that the rental unit had been repainted during the tenancy, I find that the paint was 17 years old at the end of the tenancy and that the landlord escaped the obligation to repaint more than 4 times. Further, the landlord did not supply a fan in the bathroom and I find it reasonable that after 17 years, the paint in that room would peel as a result of excess moisture and I find that this was likely to occur even if the tenant had made more of an effort to ventilate the room by opening windows. In order to succeed in this claim, the landlord must prove that the damage goes beyond what may be characterized as reasonable wear and tear. I find that the number of holes in the wall described by T.H. are not unreasonable for a 17 year tenancy. I am not persuaded that the damage described by the landlord goes beyond what may be characterized as reasonable wear and tear and for that reason, I dismiss the claim.

**Stain Blocker:** The landlord supplied an invoice showing that their workmen applied a stain blocker to a shelf under the kitchen sink at a cost of \$30.00. The landlord supplied a photograph showing that this area was heavily damaged and stained by water. I find that the staining on this shelf goes beyond what may be characterized as reasonable wear and tear as I would expect the tenant to have reported a leak to the landlord or at least cleaned up excess moisture in that area. I find that the landlord had to address this problem at a cost of \$30.00, that the damage was caused by the tenant and that the landlord is entitled to recover the cost from the tenant. I award the landlord \$30.00.

**Recaulking Bathtub:** The landlord supplied an invoice showing that they paid \$35.00 to have the bathroom re-caulked. T.H. was unsure of when the bathtub was last re-caulked. In the absence of evidence showing that the re-caulking had been performed some time during the tenancy, I find that the caulk was 17 years old at the end of the tenancy and I find that re-caulking would have been necessary in any event. I find insufficient evidence to show that the caulking was required as a result of the tenant's actions and I therefore dismiss the claim.

**Carpet Cleaning:** The landlord supplied an invoice showing that they paid \$275.00 to clean the carpet at the end of the tenancy. The landlord provided photographs showing

the state of the carpet. The photographs show that the carpet was badly stained in a number of areas. T.H. was unsure of how old the carpet was, but estimated that it was approximately 14 years old. Residential Tenancy Policy Guideline #40 identifies the useful life of carpet as 10 years. I accept that the carpet was probably 14 years old. I find that the carpet was well past its useful life, but I also find that the tenant had an obligation to leave it clean. I find that the landlord did not act reasonably to mitigate their losses as I find it is nonsensical to spend \$275.00 to clean a carpet that is so far past its useful life. By cleaning the carpet rather than replacing it, the landlord is extending the life of the carpet and saving money by delaying its replacement. I find that the tenant should not be held responsible for the landlord's choice to delay replacing the carpet and I therefore dismiss the claim.

**Fresh Air Devices:** The landlord supplied an invoice showing that they paid \$50.00 for their workmen to provide 2 electrical devices to freshen the air in the living room and bedroom. T.H. testified that those rooms had an offensive odour because of the condition of the carpet. I accept that the rooms in question had an offensive odour as it is clear that the carpet was badly stained. While the tenant should not have left the carpet in this condition, it stands to reason that if the landlord were to replace the carpet since it is beyond its useful life, the odour would be eliminated. I find that the tenant should not be held responsible for the odour given the fact that the carpet is so far past its useful life and I dismiss the claim.

**Cleaning and Garbage Removal:** The landlord supplied an invoice showing that they paid \$180.00 to clean the rental unit and remove cleaning products which the tenant left behind. The landlord also provided photographs showing the condition of the unit. The photographs show that little if any cleaning was performed by the tenant at the end of the tenancy. The tenant had an obligation to leave the unit reasonably clean and I find that he did not meet that obligation. I find that the costs incurred by the landlord are reasonable and were incurred because of the tenant's failure to meet his obligation. I therefore find that the landlord is entitled to recover the cost of cleaning and I award the landlord \$180.00.

**Filing Fee:** The landlord seeks to recover the \$50.00 filing fee paid to bring this application. As the landlord has been just partially successful in their claim, I find they should recover one half of the filing fee and I award them \$25.00.

In summary, the landlord has been successful as follows:

Stain blocker	\$ 30.00
Cleaning and garbage removal	\$180.00
Filing fee:	\$ 25.00
<b>Total:</b>	<b>\$235.00</b>

The landlord currently holds a security deposit of \$275.00 which has accrued interest totaling \$35.96 for a total of \$310.96 which must be credited to the tenant. The landlord has been awarded \$235.00. I order the landlord to retain \$235.00 from the security deposit and interest in full satisfaction of the above award and I order the landlord to return the balance of \$75.96 to the tenant forthwith. I grant the tenant a monetary order under section 67 for \$75.96. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

#### Conclusion

The landlord has been awarded \$235.00 and is ordered to return \$75.96 to the tenant. The tenant is granted a monetary order for that amount.

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: March 17, 2015

---

Residential Tenancy Branch

