



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MND; MNR; FF

### **Introduction**

This Hearing was convened to consider the Landlord's Application for Dispute Resolution seeking a monetary award for unpaid rent and damages; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

It was determined that the Landlord served the Tenant with her Notice of Hearing documents and copies of her documentary evidence by registered mail.

### **Preliminary Matters**

The Tenant referred to a previous Hearing which was held on March 11, 2014, and considered cross-applications. A Decision was provided on March 18, 2014 (the "Previous Decision"). The Previous Decision awarded the Landlord \$1,100.00 for unpaid rent (from December, 2013 – February, 2014), \$45.00 for unpaid cable fees, and \$60.00 in late fees. The Tenant was provided with compensation for an illegal eviction in the amount of \$2,200.00 and return of the \$550.00 security deposit. The Landlord's monetary award was set off against the Tenant's monetary award and a Monetary Order for the balance, in the amount of \$1,545.00, was provided to the Tenant.

The Landlord's Application filed February 10, 2015, seeks unpaid rent, late fees and unpaid cable fees for the same period of time (December, 2013 – February, 2014). I explained to the Landlord that this matter has already been decided and therefore the principle of *res judicata* applies. *Res judicata* is a rule in law that a final Decision, determined by an Officer with proper jurisdiction and made on the merits of the claim, is conclusive as to the rights of the parties and constitutes an absolute bar to a subsequent Application involving the same claim.

Therefore, this Decision will deal only with the Landlord's claim for damages and storage fees.

### **Issues to be Decided**

1. Is the Landlord entitled to a monetary award for storing the Tenant's belongings at the end of the tenancy and for damage to kitchen cabinets?

### **Background and Evidence**

The Landlord testified that the Tenant left personal belongings at the rental unit for "some weeks" after the end of the tenancy. The Landlord stated that she had to store the items for the Tenant and therefore seeks compensation in the amount of \$200.00 for storage fees.

The Tenant stated that she had been locked out of the rental unit when the Tenant was not home and therefore didn't believe she should have to pay storage fees because she was unable to remove her belongings.

The Landlord stated that she had completed a \$46,000.00 renovation to the kitchen before the Tenant moved in. She testified that the Tenant damaged the kitchen cabinets, which have not been repaired yet. The Landlord seeks compensation in the amount of \$1,600.00 for the cost of repairing the cabinets.

The Tenant denied causing any damage to the kitchen cabinets. She stated that there was no Condition Inspection Report done at the end of the tenancy because the Landlord locked her out of the rental unit.

### **Analysis**

In a claim for damage or loss under the Act, the applicant has the burden of proof to establish their claim on the civil standard, the balance of probabilities. In this case, the onus is on the Landlord to prove her claim.

I find that the Tenant cannot be held responsible for storage fees payable to the Landlord. The Previous Decision found that the Tenant was illegally evicted. This portion of the Landlord's claim is dismissed.

I find that the Landlord provided insufficient evidence that the Tenant damaged the kitchen cabinets; or sufficient evidence of the cost to repair the cabinets. No Condition Inspection Report was completed at the end of the tenancy to confirm the state of repair

of the rental unit at the end of the tenancy. No written estimates were provided to confirm the amount claimed by the Landlord.

Therefore, I dismissed the Landlord's claim in its entirety without leave to reapply.

### **Conclusion**

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: September 02, 2015

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Residential Tenancy Branch

