



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPN, MND, MNDC, MNSD, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession; a monetary order for damage to the unit, site or property; a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant attended the call. The landlord testified that the tenant was served with the Landlord Application for Dispute Resolution, evidentiary material and notice of this hearing by registered mail on April 15, 2016 and has provided a copy of a Canada Post cash register receipt bearing that date, as well as a Registered Domestic Customer Receipt stamped by Canada Post. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

At the outset of the hearing, the landlord withdrew the application for an Order of Possession stating that it was added to the application in error.

### Issue(s) to be Decided

The issues remaining to be decided are:

- Has the landlord established a monetary claim as against the tenant for damage to the unit, site or property?
- Has the landlord established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for replacement costs of missing items?

- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

### Background and Evidence

The landlord testified that this fixed-term tenancy began on November 1, 2013, which expired on April 30, 2014 and continued thereafter on a month-to-month basis. The tenant moved out of the rental unit on March 26, 2016. Rent in the amount of \$625.00 per month was payable on the 1<sup>st</sup> day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$312.50 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a condominium unit, and a copy of the tenancy agreement has been provided.

The landlord further testified that a move-in and a move-out condition inspection report had been completed by the parties and copies have been provided. The tenant provided a forwarding address in writing on the move-out condition inspection report when it was completed on March 26, 2016.

At the end of the tenancy the tenant left burned out bulbs and cleaning to be done in the rental unit. The tenant agreed that the landlord could retain a portion of the security deposit, but not all of the security deposit. The landlord has provided a Monetary Order Worksheet setting out the following claims:

- \$20.63 for 2 small drip trays for the stove;
- \$27.46 for 2 large drip trays for the stove;
- \$44.79 for a Epicurean Cutting board;
- \$22.39 for an OXO Good Grips can opener;
- \$28.15 for shelf liners;
- \$18.23 for 4 bathroom light bulbs;
- \$2.00 for an entryway light bulb;
- \$3.01 for an appliance light bulb for the stove;
- \$7.83 for rags;
- \$57.55 for a toilet seat;
- \$5.00 for cleaning a bedroom curtain;
- \$4.00 for cutting a key;
- \$240.00 for cleaning; and
- \$10.73 for a bottle of degreaser.

The landlord's total claim is \$491.77. Receipts for the drip trays for the stove, shelf liners, light bulbs, rags, toilet seat and degreaser have been provided. The hood over the stove was greasy as well as countertops.

The landlord testified that her father left the can opener and the cutting board in the rental unit for use with the condominium unit, not gifted to the tenant. The items were not in the rental unit at the end of the tenancy. The landlord does not have receipts for the items, but has provided on-line advertisements to establish the replacement costs as set out in the Monetary Order Worksheet.

The tenant hired a cleaner who threw out the shelf liners, and the landlord has provided a receipt for their replacement.

The toilet seat was a "whisper" seat which closes the lid with a pressure mechanism. The landlord had left a sticker on top of it so people would know how to close it. If it's forcefully closed the pressure mechanism breaks down, which is what happened during this tenancy.

The tenant agreed to \$5.00 being deducted from the security deposit for cleaning the bedroom curtain and to \$4.00 for cutting a key.

The landlord further testified that the housecleaning services were closed on weekends, and the landlord spent about 8 hours in total cleaning the rental unit. Photographs have been provided, which the landlord testified were taken on the evening of the move-out condition inspection, March 26, 2016. Tops of cupboards and under the stove and fridge were inspected at move-in and move-out, and the tenant did not leave the rental unit reasonably clean.

### Analysis

In order to be successful in a claim for damages, the onus is on the claiming party to satisfy the 4-part test:

1. That the damage or loss exists;
2. That the damage or loss exists as a result of the other party's failure to comply with the *Act* or the tenancy agreement;
3. The amount of such damage or loss; and
4. What efforts the claiming party made to mitigate the damage or loss suffered.

I have reviewed the move-in and move-out condition inspection reports as well as the internet advertisements and receipts provided by the landlord as evidence of the costs incurred. The *Act* specifies that the reports are evidence of the condition of the rental

unit at the beginning and end of the tenancy. It is signed at move-in and at move-out by the landlord and by the tenant, and shows that the tenant agreed to the landlord retaining \$70.00 of the security deposit. The landlord testified that the tenant agreed to deductions for cutting a key and cleaning a curtain, and I accept that. I have also reviewed the receipts and I find that the landlord has established the claims for the drip trays, shelf liners, light bulbs, rags and toilet seat. I also must consider the undisputed testimony of the landlord with respect to the cutting board and can opener.

With respect to cleaning, the landlord testified that her claim is for spending about 8 hours at a charge of \$20.00 per hour. A tenant is required to leave a rental unit reasonably clean and undamaged except for normal wear and tear at the end of a tenancy, not in a pristine condition that the landlord may prefer for future tenancies. Considering that the tenant hired a cleaner prior to leaving, I find that time and cost claimed by the landlord to be excessive, and I find that half that time is reasonable.

A landlord is required to return a security deposit and/or pet damage deposit to a tenant within 15 days of the later of the date the tenancy ends or the date the landlord receives the tenant's forwarding address in writing, or must make an application for dispute resolution claiming against the deposit(s) within that 15 day period. In this case, I am satisfied that the tenancy ended on March 31, 2016 and the landlord received the tenant's forwarding address in writing on March 26, 2016. The landlord filed the application for dispute resolution on April 11, 2016, well within the time required.

In summary, I find that the landlord has established the following claims:

- \$20.63 for 2 small drip trays for the stove;
- \$27.46 for 2 large drip trays for the stove;
- \$44.79 for a Epicurean Cutting board;
- \$22.39 for an OXO Good Grips can opener;
- \$28.15 for shelf liners;
- \$18.23 for 4 bathroom light bulbs;
- \$2.00 for an entryway light bulb;
- \$3.01 for an appliance light bulb for the stove;
- \$7.83 for rags;
- \$57.55 for a toilet seat;
- \$5.00 for cleaning a bedroom curtain;
- \$4.00 for cutting a key;
- \$120.00 for cleaning; and
- \$10.73 for a bottle of degreaser;

for a total of \$371.77.

Since the landlord has been successful with the application, the landlord is entitled to recovery of the \$100.00 filing fee.

Having found that the landlord is owed \$471.77, I order that the landlord keep the \$312.50 security deposit in partial satisfaction of the claim, and I grant a monetary order in favour of the landlord as against the tenant for the difference in the amount of \$159.27.

### Conclusion

For the reasons set out above, the landlord's application for an Order of Possession is hereby dismissed as withdrawn.

I hereby order the landlord to keep the \$312.50 security deposit and I grant a monetary order in favour of the landlord as against the tenant, pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$159.27.

This order is final and binding and may be enforced.

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 01, 2016

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Residential Tenancy Branch