



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP.  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes:** *MNSD, MND, MNDC, FF*

### **Introduction**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order for loss of income, cost of cleaning and for the recovery of the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her claim.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

### **Issues to be decided**

Has the landlord established a claim against the security deposit and if so in what amount? Is the landlord entitled to the recovery of the filing fee?

### **Background and Evidence**

The tenancy started on January 15, 2015 for a fixed term of one year. At the end of the term, the tenancy continued on a month to month basis. The rent was \$750.00 payable on the first of each month. Prior to moving in the tenant paid a security deposit in the amount of \$375.00. The rental unit was an apartment located in a building complex.

On July 30, 2016, the tenant provided the landlord with written notice to end the tenancy effective August 31, 2016. The tenant testified that he moved out on August 30, 2016.

The tenant stated that cockroaches were present at the time the tenancy started in January 2015 and despite the multiple verbal complaints to the landlord, the first treatment was scheduled for March 2016 which is more than one year after the tenancy started.

The landlord stated that in response to a complaint of a cockroach infestation in another apartment which is at a distance from this rental unit, an inspection and a preventative treatment was scheduled for March 01, 2016

The landlord stated that a follow up treatment was scheduled for June 06, 2016 and the tenant did not grant access to the pest control technicians. The tenant stated that access was granted and the treatment was carried out. The tenant admitted that by not emptying out his closet, he failed to fully prepare for the treatment. The report from the pest control company and the letter from the landlord to the tenant dated June 09, 2016, both do not state that the tenant refused access.

The landlord stated that she also sent out a notice to the tenant regarding a treatment on August 09, 2016. The tenant testified that he informed the manager that they were busy packing in preparation for the move out on August 30, 2016 and would not be in a position to fully prepare for the treatment. The tenant stated that the manager told him to do what he could. The tenant testified that he did his best to prepare the unit and allowed access to the pest control technicians.

A move out inspection was conducted in the presence of the tenant and a charge analysis sheet was presented to the tenant along with a copy of the move out inspection report. Copies of both were filed into evidence. The charge analysis sheet indicated that the tenant was required to pay \$10.00 for cleaning the hood fan. The tenant signed in agreement.

On September 08, 2016, the landlord made this application for a monetary order. The landlord stated that the tenant did not cooperate fully with the pest control treatments which resulted in the continuation of the cockroach infestation. The landlord stated that the rental unit was uninhabitable for the month of September and therefore the landlord suffered a loss of income. The landlord is claiming \$750.00 towards this loss.

### **Analysis**

Based on the evidence and testimony of both parties, I find that the tenant failed to fully prepare the unit for the pest control treatment on June 06, 2016. However regarding granting access to the pest control technicians, I prefer the testimony of the tenant. I find on a balance of probabilities that the tenant did allow access to the technicians.

Regarding the treatment on August 09, 2016, it is reasonable to expect that the tenant would be actively involved in packing his belongings in preparation of the end of tenancy on August 30, 2016.

I accept the tenant's testimony that he did inform the manager that full preparation for the treatment was not possible and the manager requested the tenant to do his best.

Based on the above, I find that while the tenant did not fully prepare for the treatment on June 06, 2016, it is not grounds for holding the tenant liable for a loss of income that the landlord suffered in September 2016. In addition the landlord testified that the building complex was constantly inundated with cockroaches, despite the multiple treatments that were carried out.

The tenant also testified that the infestation was present at the start of tenancy in January 2015 and despite the multiple verbal complaints to the landlord, the first treatment was scheduled for March 2016 which is more than one year after the tenancy started.

Based on the above I find that the tenant is not responsible for loss suffered by the landlord in September 2016, due to the cockroach infestation and accordingly, I dismiss her claim. The tenant has agreed to pay \$10.00 towards the cleaning of the hood fan and accordingly I award the landlord her claim. The landlord has not proven her claim for the loss of income and therefore she is not entitled to the recovery of the filing fee.

Overall the landlord has established a claim of \$10.00. I hereby order that the landlord retain this amount from the security deposit and return the balance of \$365.00 to the tenant within 15 days of receiving this decision.

### **Conclusion**

The landlord must return \$365.00 to the tenant within 15 days of receiving this decision.

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 09, 2017

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Residential Tenancy Branch