



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MAUDE, MACKAY & CO. LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes                      MND, MNSD, FF

### Introduction

This matter dealt with an application by the Landlord for compensation for damage to the unit, site or property, to retain the Tenant's security deposit and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on April 27, 2017. The Landlord said the registered mail package was returned as unclaimed. Further the Landlord said the address on the package was the same forwarding address the Tenant gave the Landlord on the move out inspection report. The Landlord also said they told the Tenant they were making an application and she could expect a hearing package to be sent to her. Based on the evidence of the Landlord, I find that the Tenant was deemed to be served with the Landlords' hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

### Issues(s) to be Decided

1. Are there damages to the unit and if so how much?
2. Is the Landlord entitled to retain a portion of the Tenant's security deposit as compensation for the damages?

### Background and Evidence

This tenancy started on April 4, 2015 as a fixed term tenancy with an expiry date of April 30, 2016 and then another fixed tenancy was renewed until September, 2016. After these fixed tenancy agreement the tenancy continued on a month to month basis until March, 2017. The Tenancy ended at the end of March, 2017. Rent was \$2,950.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$1,475.00 at the start of the tenancy. The Landlord said the Tenant moved out of the rental unit on at the end of March, 2017 as a result of a 2 Month Notice to End Tenancy for the Landlord's Use of the property. The Landlord said the owners of the property move into the unit in April, 2017.

The Landlord continued to say that the move out inspection was completed on March 25, 2017 and the bathroom was check off as dirty but satisfactory. The Landlord said after trying to clean the counter top it was discovered that the counter top was damaged and could not be repaired by cleaning. The Landlord submitted photographs showing the scratches and gouges in the

counter top. As a result the Landlord said the counter tops were replaced at a cost of \$1,176.05. The Landlord submitted the paid receipt for the repairs. Further the Landlord said they are requesting an additional \$52.50 for the extra cleaning in the bathroom. The Landlord said they contacted the Tenant in a letter on April 10, 2017 requesting her agreement to retain an additional \$1,228.55 of the Tenant's security deposit. The Landlord said the Tenant had agreed to a deduction of \$170.00 from the security deposit on the move out inspection report and now the Landlord's were requesting an additional \$1,228.55 for the damage to the bathroom. The Landlord said they sent the Tenant a cheque for \$76.45 which was the balance of the Tenant's security deposit after the original deduction of \$170.00 and the second deduction of \$1,228.55 for the bathroom damage.

The Landlord said that they thought the damage in the bathroom could be repaired by cleaning but that was not the case as the counter top had to be replaced. The Landlord requested to retain an additional \$1,228.55 of the Tenant's security deposit to pay for the counter top replacement.

### Analysis

For a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

The Landlords proved their loss exists and they verified the losses by providing receipts for the claims that the Landlords have made. As the Tenant did not attend the hearing to dispute the Landlords' claims; I accept the Landlord's testimony that these damages and losses were caused by the Tenant and the costs were reasonable amounts to make repairs to the unit. Consequently, I find the Landlords have established grounds to be awarded the costs for the additional cleaning and the damage to the countertops. I order the Landlord to retain the balance of the Tenant's security deposit in the amount of \$1,228.55.

With regard to the filing fee the Landlord's monetary amount on the application and monetary worksheet does not include the filing fee of \$100.00; therefore I dismiss the Landlord's request to recover the filing fee from the Tenant.

### Conclusion

I order the Landlord to retain the balance of the Tenant's security deposit in the amount of \$1,228.55.

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 18, 2017

---

Residential Tenancy Branch

