



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MND MNDCL-SD FF

### **Introduction:**

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 1:55 p.m. in order to enable the tenant to call into this teleconference hearing scheduled for 1:30 p.m. on December 11, 2018. The landlord attended the hearing and gave sworn testimony. He was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord provided evidence that he served the Application for Dispute Resolution by registered mail. I confirmed the postal service attempted delivery to the tenants and left Notices to pick it up from August 29, 2018 to September 14, 2018 but the tenant failed to pick it up. I find the tenant was served pursuant to section 89 of the *Residential Tenancy Act* (the Act) and is deemed have received the Application pursuant to section 90 of the Act. . The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Sections 7 and 67 for damages:
- b) To retain the security deposit to offset the amount owing; and
- c) An order to recover the filing fee pursuant to Section 72.

### **Issue(s) to be Decided:**

Has the landlord proved on a balance of probabilities that the tenant damaged the property and that it was beyond reasonable wear and tear? What is the cost of the losses incurred by the landlord? Is the landlord entitled to recover the filing fee?

### **Background and Evidence:**

The tenant did not attend the hearing although served with the Application/Notice of Hearing. The landlord attended and was given opportunity to be heard, to present

evidence and to make submissions. The landlord stated that the tenancy commenced November 1, 2016 on a fixed term to October 31, 2017 and continuing month to month thereafter. Monthly rent was \$2400 plus utilities and a security deposit of \$1200. The tenant vacated on July 31, 2018 and the security deposit remains in trust.

The landlord said the home was built in 2012 and he provided evidence that the condition inspection report at move-in showed no issues. The landlord said the tenant sent an email to the landlord complaining about moisture build up and water 'seeping in'. The management company responded to the tenant stating the problem was condensation caused by high humidity levels and gave the tenant instructions on how to control it. The tenant failed to do it which resulted in significant damage to the unit. The landlord claims as follows:

\$4036.66 professional cleaning and dehumidification

\$1267.88 envelope consultant fee

\$4940.00 repairs to the unit.

Invoices were provided to support the claim and an estimate for the repairs. The estimate was a lump sum from a professional company and the insurer. The insurer refused to cover anything as the professional found the moisture came from within the interior. The landlord described repairs as drywall repairs due to humidity promoting mould (about \$2000), popcorn ceiling repair (about \$1500 for the upstairs), and the remainder of \$1400.46 approximately for repairs to fascia boards and woodwork.

The tenant provided no documents to dispute the claim. On the basis of the documentary and solemnly sworn evidence, a decision has been reached.

### **Analysis**

I find awards for compensation are provided in sections 7 and 67 of the *Act*.

Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

### **Director's orders: compensation for damage or loss**

**67** Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with

this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party. Section 67 of the Act does *not* give the director the authority to order a respondent to pay compensation to the applicant if damage or loss is not the result of the respondent's non-compliance with the Act, the regulations or a tenancy agreement.

The onus is on the landlord to prove on the balance of probabilities that there is damage caused by this tenant, that it is beyond reasonable wear and tear and the cost to cure the damage. I find the landlord's evidence credible that this tenant caused the damage and that it was caused by them not exercising control over excessive moisture build up in the home. I find his credibility well supported by the reports of the professionals and the effort of the management company to inspect the venting and to give the tenants instructions on how to control interior moisture buildup. I find the condition inspection report at move-in notes no such damage but it is listed on the move-out report which the tenants signed. I find the tenants breached their obligation under the Act and tenancy agreement by not maintaining the premises during their tenancy so I find them responsible to compensate the landlord for his costs.

I find the tenants responsible for \$4030.66 for the cleaning and dehumidification required and \$1267.88 for the cost of the envelope consultant to determine the cause of the moisture. In respect to the cost of repairs, I find Residential Policy Guideline 37 assigns a useful life to elements in rented premises which is designed to account for reasonable wear and tear. As the home was 6 years old at move-out (2018-2012=6), I find there were six years of wear and tear. Drywall is assigned a useful life of 20 years so I find the landlord entitled to recover 70% of the cost of its replacement or \$1400 ( $2000 \times 70\% = 1400$ ). Wood items are assigned a useful life of 15 years so I find the landlord entitled to recover \$840.27 for the 9 years of useful life remaining in the woodwork ( $9/15 = 60\%$ ) ( $1400.46 \times 60\%$ ). The popcorn ceiling would be grouped with drywall and have an assigned life of 20 years. Therefore I find the landlord entitled to recover 70% or \$1050 for its replacement.

### **Conclusion:**

I find the landlord is entitled to a monetary order as calculated below and to retain the security deposit to offset the amount owing. I find the landlord is also entitled to recover filing fees paid for this application.

### **Calculation of Monetary Award:**

Cleaning and dehumidification	4030.66
Envelope inspection & report	1267.88
Drywall replacement allowance	1400.00

Wood replacement allowance	840.27
Popcorn ceiling allowance	1050.00
Filing fee	100.00
Less security deposit	-1200.00
<b>Total Monetary Order to Landlord</b>	<b>7488.81</b>

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: December 11, 2018

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Residential Tenancy Branch