



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDL –S; FFL

### Introduction

This hearing was scheduled to deal with a landlord's application for a Monetary Order for damage to the rental unit and authorization to retain the tenant's security deposit. The landlord appeared at the hearing; however, there was no appearance on part of the tenant.

Since the tenant did not appear, I explored service of hearing documents upon the tenant. The landlord submitted that she received a forwarding address from the tenant by way of a letter dated February 9, 2019 that was received via registered mail on February 23, 2019. The landlord filed this claim and sent the hearing package and evidence to the tenant at her forwarding address via registered mail on March 8, 2019. The registered mail tracking number was orally provided and a search of the tracking number showed that the mail was successfully delivered. I was satisfied the tenant was duly served with notification of this proceeding and I continued to hear from the landlord without the tenant present.

On another procedural matter, I noted that the landlord's Application for Dispute Resolution indicates the landlord was seeking compensation of \$2,995.61 from the tenant. The landlord provided a Monetary Order worksheet dated March 8, 2019 providing for a detailed breakdown of a sum of \$2,895.61. The landlord also provided another Monetary Order worksheet dated March 8, 2019 that provided for a detailed breakdown of the sum of \$3,734.69. I asked the landlord which Monetary Order worksheet she sent to the tenant but the landlord responded that she was uncertain. The landlord stated that she was willing to accept the amount of the security deposit, or \$1,075.00, in satisfaction of her losses even though her losses exceed the security deposit.

I amended the landlord's claim to \$1,075.00 as to do so was non-prejudicial to the tenant and I was satisfied that the tenant has been sufficiently notified that the landlord is seeking to retain her security deposit for damage to the rental unit.

Issue(s) to be Decided

1. Has the landlord established an entitlement to compensation from the tenant in a sum that is at least the amount of the \$1,075.00 security deposit?
2. Is the landlord authorized to retain the tenant's security deposit?

Background and Evidence

The landlord submitted that the tenancy started in April 2017 and the tenant vacated the unit on February 6, 2019. The landlord collected a security deposit of \$1,075.00 and the tenant was required to pay rent of \$2,150.00 on the first day of every month.

The landlord did a move-in inspection report with the tenant and a move-out inspection was done with the tenant's daughter since the tenant was unavailable but the tenant's daughter refused to acknowledge any damage caused during the tenancy or sign the move-out inspection report.

The landlord communicated to the tenant that she found the unit to be damaged in various letters but the tenant did not provide the landlord with written consent to make deductions from the security deposit. The landlord received the tenant's forwarding address in the mail on February 23, 2019 and filed this claim on March 8, 2019. The landlord seeks authorization to retain the tenant's security deposit in satisfaction of the landlord's losses.

Since the landlord was limiting her claim to the amount of the security deposit, I instructed the landlord to present the most significant claims of damage. The landlord submitted the following:

The fridge drawers, crispers and shelves were broken, warped or support parts were missing at the end of the tenancy. The fridge had been new at the start of the tenancy. The landlord obtained an estimate for replacement parts costing \$550.00 but the repairs could not be made and a new fridge was purchased at an expense of \$838.61.

The stove glass top was damaged by what appears to be overheating or burning something. In addition, the side panel was stripped of its factory finish in areas. The

landlord obtained estimates of the cost to purchase a new glass stove top and panel in the amounts of \$550.00 and \$350.00. The damaged parts, however, are not easily replaced and the landlord has left the stove as-is since it is still functional although the landlord has suffered a loss in value since the stove was expensive.

A metal bracket in the dishwasher was broken at the end of the tenancy. The landlord paid for a service call to investigate the issue and the technician determined the repair could not be made unless a metalsmith could recreate a bracket. The service call cost \$68.25.

The landlord also submitted that the walls had smoke damage which required washing and then repainting; the tenant left abandoned furniture in the unit which required removal; the bathroom vanity drawer, the shower door and a blind were broken, and other areas of the rental unit required additional cleaning. The landlord hired a person to perform all of these tasks which cost the landlord \$1,484.70.

The landlord provided several photographs, the condition inspection reports, estimates and receipts, and letters to the tenant to demonstrate her losses.

### Analysis

Section 32 of the Act provides that a tenant is required to repair damage caused to the rental unit or residential property by their actions or neglect, or those of persons permitted on the property by the tenant. Section 37 of the Act requires the tenant to leave the rental unit undamaged at the end of the tenancy. However, sections 32 and 37 provide that reasonable wear and tear is not considered damage. Accordingly, a landlord may pursue a tenant for damage caused by the tenant or a person permitted on the property by the tenant due to their actions or neglect, but a landlord may not pursue a tenant for reasonable wear and tear or pre-existing damage.

Section 37 of the Act also requires that a tenant leave a rental unit reasonably clean and vacant, which includes removal of garbage and personal possessions, at the end of the tenancy. If a tenant fails to leave the rental unit reasonably clean and leaves garbage or abandoned property behind the landlord may recover the cost to clean and dispose of abandoned possessions.

Upon consideration of all of the unopposed submissions before me, I accept the landlord's position that the tenant is responsible for damaging the rental unit, failing to remove all of her personal possessions and did not leave the rental unit reasonably

clean at the end of the tenancy and that the landlord suffered a loss of at least the amount of the security deposit of \$1,075.00. Therefore, I award the landlord compensation of \$1,075.00 and I authorize the landlord to retain the tenant's security deposit in satisfaction of that award.

### Conclusion

The landlord has been authorized to retain the tenant's security deposit in satisfaction of the landlord's losses.

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: June 27, 2019

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Residential Tenancy Branch