



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAJ HOLDINGS LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MND, MNSD, FFL

### Introduction

On January 15, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for a monetary order for damage to the unit; to keep the security deposit; and to recover the cost of the filing fee.

The matter was set for a conference call hearing. The Landlord attended the teleconference; however, the Tenant did not.

The Landlord testified that he sent the Notice of Dispute Resolution Proceeding documents to the Tenant using registered mail sent on January 22, 2020. The Landlord testified that the mail was sent to the forwarding address the Tenant provided at the end of the tenancy. The Landlord testified that the registered mail was delivered.

I find that the Tenant was served with notice of the hearing in accordance with sections 89 and 90 of the Act. The Tenant is deemed to have received the notice on January 27, 2020.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

At the start of the hearing the Landlord amended his claim and withdrew a claim for the replacement cost of a window.

The Landlords application proceeded on his claim to recover compensation for painting costs.

### Issues to be Decided

- Is the Landlord entitled to a monetary order for damage to the unit?
- Is the Landlord entitled to keep the security deposit and pet damage deposit towards his claims?

### Background and Evidence

The Landlord testified that the tenancy began on June 15, 2018, as a fixed term tenancy to continue until June 30, 2019. The tenancy continued thereafter on a month to month basis. Rent in the amount of \$2,100.00 was to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit of \$1,050.00 and a pet damage deposit of \$1,050.00.

### Wall Damage

The Landlord testified that the Tenant is responsible to damage to a wall which required patching, sanding and painting. The Landlord testified that the tenant installed a wall mount for a television. The Landlord testified that the Tenant did not patch the wall properly and did not repaint the wall.

The Landlord testified that he hired a company to patch, sand and repaint the wall. The Landlord provided a copy of an invoice dated January 8, 2020 in the amount of \$210.00.

The Landlord is seeking \$210.00 for the cost to repair the wall.

### Security Deposit

The Landlord is seeking to keep the amount of \$210.00 from the security deposit.

### Analysis

When a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. To prove the claim, the Applicant must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act, Regulation or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss;  
and

4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I make the following findings:

#### Wall Damage

I find that the Tenant is responsible for the repair cost to the wall. I grant the Landlord the amount of \$210.00.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

#### Security Deposit

I authorize the Landlord to keep \$310.00 from the security deposit.

I order the Landlord to repay to the Tenant, the balance of \$1,790.00 from the security deposit and the pet damage deposit.

I find that the Tenant is entitled to a monetary order for the balance of \$1,790.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Landlord is cautioned that costs of such enforcement are recoverable from the Landlord.

#### Conclusion

The Landlord was partially successful with his claim to recover costs for the repair of a wall and the recovery of the filing fee.

I authorize the Landlord to retain the amount of \$310.00 from the deposits of \$2,100.00 that he is holding.

I order the Landlord to repay the Tenant the amount of \$1,790.00 and I grant the Tenant a monetary order in the amount of \$1,790.00.

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 09, 2020