

# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Decision

Dispute Codes: MND, MNSD and FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing and had opportunity to be heard.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for loss and damage?

### Background, Evidence and Analysis

The parties agreed that the tenancy began on or about December 1, 2006 and that a pet deposit of \$300.00 and a security deposit of \$600.00 were collected at that time. The parties further agreed that at the end of the tenancy, a person authorized by the tenant to stay in the rental unit permitted others to use the rental unit and that on or about the evening of March 20, those persons caused extraordinary damage to the rental unit. The landlord presented evidence of \$10,285.59 having been spent in relation to the damage repair. The tenant disputed only a few items on the landlord's list. As the tenant accepted responsibility for substantially all of the landlord's claim, my determination is expressed in terms of deductions from the total claim.

The tenant disputed responsibility for the cost of replacing the carpets as she testified that the carpets were at least 20 years old. The landlord acknowledged the age of the carpets and testified that she was unable to remove all of the broken glass from the carpets. Residential Tenancy Policy Guideline #37 lists the useful life of carpets as 10 years. I find that the carpets had outlived their useful life and had no actual value at the end of the tenancy. However, as the carpets were in relatively good condition considering their age, I find that the landlord would not have needed to replace them had the tenant's guests damaged them. I find that a nominal award is appropriate and I reduce the landlord's claim for carpet replacement costs from \$1,127.58 to \$50.00, a

total deduction of 1,077.58. Related to the issue of the carpets, the tenant questioned the \$124.00 charge for moving furniture to permit carpet to be laid. The landlord testified that the new tenants moved into the rental unit on April 3 but the new carpet could not be installed until April 4, so the belongings of the new tenants had to be moved to allow the carpet to be installed. In this instance too I find it appropriate to award the landlord a nominal portion of the furniture moving charge and grant the landlord \$10.00 of the charge for a total deduction of \$114.00.

The tenant further disputed charges for food. I find that the tenant cannot be held responsible for the cost of feeding the landlord or her workers and find that the \$69.49 charges for wheatberries and Tim Hortons must be deducted from the claim.

The tenant further disputed the landlord's claim for lost wages from work during the time she and her husband had to take off from work to perform work or oversee the work being done. The landlord testified that she and her husband performed some of the labour and also took time off from work to oversee labourers at the rental unit. The landlord provided no evidence of the hourly wage usually paid to her or her husband. The landlord did not itemize the labour she or her husband performed and did not specify which hours were spent performing repairs and which were spent overseeing repairs. I find that overseeing repairs is a cost of operating a business of this nature and find that the landlord is not entitled to recover that cost, but recognize that the landlord was able to minimize her losses by performing some of the repairs herself. In the absence of details of the hours worked and duties performed, I find it appropriate to substitute a reasonable amount for the landlord's claim. I find it reasonable to award the landlord \$1,000.00 for the work performed at the rental unit, which may serve to compensate her in part for lost wages. A deduction of \$1,760.00 will be made from the claim.

The tenant further disputed having to bear the cost of painting supplies. The landlord testified that she provided painting supplies, including brushes, rollers and trays, to the contractors. I find it appropriate that the tenant bear the cost of the painting supplies. Because the landlord provided the supplies to the contractors, they were not able to charge her for those supplies, which cost certainly would have been passed on to her

as the consumer. The cost of painting supplies will not be deducted.

The landlord also made a claim for additional cell phone charges which she claims were incurred as she had no way to communicate while at the rental unit other than through the use of the cell phone. I find this claim to be too remote and deduct \$141.75 from the landlord's claim.

The landlord also sought to recover the cost of developing photographs and consulting her lawyer. Under the Act, the only litigation-related cost I am empowered to award is the cost of the filing fee. I find that the \$260.52 cost of photographs and legal consultation must be deducted from the landlord's claim.

### Conclusion

In summary, the following deductions have been made from the landlord's claim:

Original claim	\$10,285.59
Carpet deduction	-1,077.58
Furniture moving deduction	- 114.00
Food deduction	- 69.49
Lost wages deduction	-1,760.00
Cell phone charge deduction	-141.75
Photographs/legal advice deduction	-260.52
Total:	\$6,862.25

I find that the landlord has established a claim for \$6,862.25. The landlord is also entitled to recover the \$100.00 filing fee paid to bring this application, for a total entitlement of \$6962.25. I order that the landlord retain the deposit and interest of \$925.04 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$6,037.21**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated October 24, 2008.