



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      MND, MNSD, MNDC, FF

### Introduction

This conference call hearing was convened in response to the landlord's application for a Monetary Order for damage to the unit; to keep the security deposit; for money owed or compensation for damage or loss under the Act; and to recover the filing fees associated with this application.

Both parties attended the hearing and provided affirmed testimony. They presented oral evidence and confirmed receipt of the material they intended to submit at the hearing.

### Issue(s) to be Decided

Is the landlord entitled to a Monetary Order, and for what amount?

### Background and Evidence

The rental unit consists of a two bedroom townhouse located in Langley.

The tenancy started on August 1<sup>st</sup>, 1999 and ended on August 31<sup>st</sup>, 2010. The monthly rent was \$775.00 payable on the first of each month. Inspection condition reports were completed at the start and the end of the tenancy. The tenant paid a security deposit of \$387.50.

The parties did not dispute that the carpets were new at the start of the tenancy. In his written submission, the tenant stated in part that the unit was broken into while he was away between December 20<sup>th</sup>, 1999 and January 5<sup>th</sup>, 2000.

The tenant reported that the culprits stayed in the unit for a period of time, and caused significant damage which included ruining the carpet. The tenant provided a police file number, and stated that he notified the property manager. The tenant submitted that the property manager advised him that the landlord would look after the repairs through their building insurance. The tenant submitted that this was never done, and that when a move-out condition report was completed, the current property manager said that he was charged for the cost of replacing the carpet. The tenant did not dispute the landlord's \$100.00 charge to replace a broken countertop.

At the hearing, the landlord's agent testified that she was not working for the landlord in 2000, and she provided no evidence regarding the landlord's actions, if any, regarding building insurance or replacing the carpet. The agent testified that the carpet was new when the tenant moved in, and that its condition on move out could not, in her opinion, be solely attributed to the break-in incident. In her written submissions, the agent included photographs showing that the carpet was beyond cleaning and had to be replaced. The agent stated that the tenant had a dog, and maintained that the tenant was responsible for the excessive amount of stains and damage beyond normal wear and tear. The agent provided an updated monetary claim of \$2064.16 for a new carpet, \$100.00 for the broken countertop, and \$50.00 for the filing fees for the sum of \$2214.16.

The tenant testified that he notified the property manager of the carpet's condition immediately after the break-in. He said that after waiting several months, he contacted the landlord himself, and that the landlord told him that they had never received anything from the property manager and that they would look into the matter. The tenant said that he never heard anything back from the landlord; that the property manager was angry with him for contacting the landlord directly; and that the property manager told him that there was no money in the budget to replace the carpet. The tenant did not deny that he had occasional spills, but that he was not responsible for ruining the carpet completely. Concerning the dog, the tenant said that it was already house broken and obtained it after the break-in.

### Analysis

The tenant testified that the landlord did not respond or attend the unit to investigate the claim or damages after the break-in. The current agent for the landlord was not around at the time and had no evidence to refute that testimony. The landlord bears the burden to prove the grounds for the claim. In this matter, the landlord's agent submission that, according to her experience, the damage to the carpet was out of reality with the extent of damages that could have occurred during the break-in only were speculative and not supported with evidence.

Section 32 (1) of the *Residential Tenancy Act* provides in part that; a landlord must provide and maintain reasonable health, safety and housing standards required by law; and having regard to the age character and location of the rental unit, makes it suitable for occupation by a tenant. The tenant notified the property manager and the landlord regarding the break-in and the condition of the unit. I find that in the circumstances, it would have been reasonable for the landlord to investigate the tenant's claim and to take action. There was no evidence that the landlord did this. The tenant testified that the landlord did not respond, and that he tried as best he could to repair and disinfect the carpet at his own cost. I find on the balance of probabilities that there is insufficient evidence to prove the landlord's claim 10 years after the fact. As such, I am unable to make a finding of complete liability against the tenant. The tenancy lasted 10 years: the tenant lived in the unit with his son and a dog, and I accept the tenant's submission regarding wear and tear and occasional spills.

The *Residential Policy Guidelines* provide an estimated useful life in rental accommodations to account for reasonable wear and tear. In the case of carpets, that useful life is 10 years, which is the time span of this tenancy. However in many cases carpets have lasted longer than the estimated useful life set out by policy. In view of the tenant's submissions concerning spills and that he had a dog during the tenancy, I find that; the carpet's useful life was shortened; that the landlord is entitled to a monetary claim; and that the tenant's \$387.50 security deposit is an appropriate amount to award

towards that claim. Accordingly, for the reasons stated above, I award the landlord the following:

-	Compensation for the carpet's useful life:	\$387.50
-	Countertop replacement:	\$100.00
-	Total:	\$487.50

Conclusion

Since he was partially successful, I award the landlord partial recovery of the filing fee in the amount of \$25.00. The landlord has established a claim for \$512.50. The landlord is authorized to retain the tenant's \$387.50 security deposit for the balance totalling \$125.00.

Pursuant to Section 67 of the Act, I award the landlord a monetary claim for the sum \$125.00. If necessary, This Order may be registered in the Small Claims Court and enforced as an order of that Court.

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: January 24, 2011.

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Residential Tenancy Branch