



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order for compensation for damage to or cleaning of the rental unit, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure, however, I refer to only the relevant facts and issues in this decision.

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

Is the Landlord entitled to monetary compensation from the Tenant?

### **Background and Evidence**

The tenancy with the Tenant began in 2006, with the parties entering into a written tenancy agreement. The Tenant paid a security deposit of \$449.50 on March 1, 2006. The parties entered into a new tenancy agreement on or about April 24, 2011, for the same rental unit. The security deposit remained with the Landlord at that time.

The Landlord performed incoming and outgoing condition inspection reports. The incoming condition inspection report was performed on February 28, 2006, and there are no problems noted with the kitchen counter. The outgoing condition inspection report indicates that the kitchen counter was damaged and would require \$150.00 in repairs and that the oven in the stove required cleaning and a charge of \$15.00 was indicated.

The Agent for the Landlord testified that it looked like the Tenant had put hot pots on the counter and had used a knife several times for cutting or chopping on the counter. The Agent for the Landlord also testified that the Tenant did not clean out the oven in the stove.

In support of the claims, the Landlord has provided receipts, a photo of the oven, incoming and outgoing condition inspection reports, the tenancy agreement and various correspondences.

In reply, the Tenant testified he had many complaints about the rental unit and the Landlord did nothing about the complaints.

The Tenant testified he does not know what the Landlord is complaining about regarding the kitchen counter. The Tenant further testified that the oven in the stove did not work for four years.

The Tenant did not sign the outgoing condition inspection report, however, he did sign the incoming report. The Landlord's submissions indicate the Tenant was evicted from the rental unit.

The Tenant also complained that there had been leaks in the rental unit and the Landlord never fixed them. The Tenant testified he did not put the complaints into writing, as he has limited facility with English.

### Analysis

Based on the affirmed testimony, evidence, photographs and on a balance of probabilities, I find that the Tenant breached section 37 of the Act, by failing to return the rental unit to the Landlord in a clean and undamaged state.

Based on the evidence before me, I find the Tenant did not clean the oven unit, or make necessary repairs to the kitchen counter and this has caused losses to the Landlord. The complaints about the rental unit by the Tenant are not relevant in a claim made by the Landlord.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], 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.

Therefore, I allow the Landlords **\$165.00** for these claims.

I find that the Landlord has established a total monetary claim of **\$215.00** comprised of the above described amounts and the **\$50.00** fee paid for this application.

I order that the Landlords may retain **\$215.00** from the deposit (\$449.50) and interest (\$15.53) of **\$465.03** in full satisfaction of the claim and I order the Landlord to return the balance ( $465.03 - 215.00 = 250.03$ ) of **\$250.03** under section 67 of the Act.

**I also grant and issue the Tenant a monetary order for the balance of \$250.03, which may be enforced if the Landlord does not return the balance to the Tenant.** This order is granted pursuant to section 67 the Act and the policy guidelines and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

#### Conclusion

I find the Tenant failed to clean and make repairs at the rental unit. The Landlord may keep \$215.00 from the deposit and interest held and the Tenant is granted an order for the balance due of \$250.03.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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, 2013

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Residential Tenancy Branch