

Small Claims Court Has Jurisdiction to Decide Claims for Damage to a Rental Unit (if the tenant is no longer in possession)

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14 September 2016

It has not been uncommon for Deputy Judges of the Small Claims Courts in Ontario to dismiss claims by landlords for damage to a rental unit. Most often the stated basis for dismissing such claims is that the claims are within the exclusive jurisdiction of the (Ontario) Landlord and Tenant Board and therefore the Small Claims Courts have no jurisdiction. Although this is the correct result only if the tenant is still in possession of the rental unit, Small Claims Courts have dismissed such cases even where the claims were started after the tenant had vacated the rental unit. This happened to one Toronto landlord in September of 2015.

The landlord subsequently successfully appealed the dismissal of its claim to the Divisional Court of Ontario. In its decision, the Divisional Court clarified the law and made it clear that if a tenant is no longer in possession of the rental unit then the Small Claims Court has jurisdiction to hear and determine the landlord's claim, subject only to its monetary jurisdiction (\$25,000).

The text of this decision is available [here](#).

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Author



Rob Winterstein

Partner

416.865.6790

rwinterstein@grllp.com



Bay Adelaide Centre — East Tower
22 Adelaide Street West, Suite 3600
Toronto, ON M5H 4E3

Phone: 416.865.6600
Fax: 416.865.6636
contactGR@grllp.com