



# Dispute Resolution Services

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

## **DECISION AND REASONS**

Dispute Codes: MNR, MNSD, MND, MNDC FF.

### Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- A monetary order pursuant to Section 67;
- An order to retain the security deposit plus interest pursuant to Section 38;
- An order to recover the cost of filing the Application for Arbitration pursuant to Section 72.

### Issues to be decided

Is the landlord entitled to a monetary order for the following:

- Damages to the rental unit and in what amount.
- Rent for January 2008.
- The fee to file this application.
- To retain the security deposit in partial satisfaction of this claim.

### Background and Evidence

The tenancy started on November 01, 2006 for a fixed period of one year and then continued on a month to month basis. Rent was \$720.00 due in advance on the first of the month and the tenant paid a security deposit of \$360.00 on October 12, 2006.

I find that the tenant served a Notice to End Tenancy to the Landlord on December 10, 2007, by way of personal service and moved out on December 29, 2008. The landlord applied for dispute resolution on July 25, 2008. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

The tenant signed a tenancy agreement on November 01, 2006 agreeing to give the landlord a written notice of at least “one clear month” to end tenancy. As per section 45(1)(b) of the *Residential Tenancy Act*, a tenant may end the tenancy by giving the landlord notice to end the tenancy effective on a date that is the day before the day in the month that rent is payable, under the tenancy agreement. Since rent is due on the first of the month and the tenant gave his notice to end tenancy on December 10, 2008,

I find that the landlord is entitled to rent for January 2008. The landlord has claimed rent in the amount of \$720.00 and a late fee of \$25.00. As per the tenancy agreement and section 7(1)(d) of the *Residential Tenancy Regulation*, the landlord may charge a late fee. Accordingly, the landlord is entitled to \$745.00 which is comprised of rent for January 2008 and a late fee.

The landlord has submitted into evidence an itemized account of the costs he incurred to repair the damage caused by the tenant and restore the rental unit to the condition that it was in, at the time of the start of the tenancy. A move in inspection was conducted on November 22, 2008 and the tenant has signed the report. The landlord stated that she served the tenant two notices, dated December 20 and 27, 2008 to conduct a move out inspection by posting them on his door. The tenant stated that he did not receive them. The tenant vacated the rental unit on December 29, 2008. The landlord conducted the inspection without the tenant on January 04, 2008 and wrote out an estimate of the costs that he would incur to restore the rental suite to its former condition.

The landlord also submitted into evidence photographs of the damage. During the hearing, the details were discussed and the tenant admitted to the following:

- Leaving the refrigerator and stove in an unclean condition
- Putting holes in the walls and the doors
- Stains on the carpet
- Garbage left behind.

The tenant submitted into evidence a hand written estimate that was provided to him and dated January 02, 2008, regarding the cost of fixing the damage and a receipt from a professional carpet cleaner for cleaning the carpets in the rental unit on December 21, 2007. The tenant pointed out that the estimated costs were far lower than the costs that the landlord was claiming at this time.

The landlord has claimed a total of \$961.73 to clean the carpet and replace the under pad and has submitted receipts in the following amounts:

- \$ 230.00 to clean the carpet
- \$ 211.68 to replace the under pad
- \$ 420.00 to install the under pad
- \$ 99.75 to clean the carpet after installing the under pad.

The landlord stated that the under pad had a bad odour of cat urine and had to be replaced. The tenant stated that he did not have a cat at any time during the tenancy. As per section 32(4) of the *Residential Tenancy Act*, a tenant is not required to make repairs for reasonable wear and tear. The landlord agreed that the carpets and under pad were not new at the start of the tenancy and I find that the landlord is not entitled to the cost of replacing the under pad. However, the landlord is entitled to \$230.00 which is the cost of cleaning the carpet. Since the tenant has also incurred a cost of \$106.00 to clean the carpet, I find that the landlord is entitled to the difference in the amount of \$124.00 towards the cost of cleaning the carpet.

After reviewing the photographs and other evidence submitted and taking into consideration the affirmed testimonies of both parties, I find that the landlord is entitled to a total of \$517.50 for the following costs:

- \$90.00 to clean the refrigerator and stove
- \$80.00 to fix the holes in the doors
- \$40.00 to clean the washroom
- \$30.00 for garbage removal
- \$40.00 to clean and fix the baseboards

- \$220.00 to repair walls in the living room and hallway
- \$17.50 to replace bulbs and heat lamp

### Analysis

Based on the testimony of the landlord and the tenant, I find that the landlord is entitled to a monetary claim for damages and repairs to the rental suite. I also find that the landlord is entitled to the fee for filing this application. Accordingly, the landlord is entitled to a monetary order in the amount of \$1436.50 for the following:

- \$124.00 for cleaning the carpet
- \$517.50 for damages and repairs
- \$745.00 for rent for January 2008
- \$50.00 for filing this application

I order that the landlord retain the security deposit and interest of \$369.83 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance of \$1066.67. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### Conclusion

I will issue the landlord a monetary order in the amount of \$1066.67.

Dated September 25, 2008.