



Dispute Resolution Services

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

DECISION

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

Introduction

This hearing originally convened on February 11, 2009 and was adjourned when the scheduled hour elapsed and the parties had not had sufficient time to submit all their evidence. The hearing reconvened on March 27, 2009 and continued for the full hour.

The landlord's claims fall in to three broad categories: unpaid rent, damage to landlord's property and cleaning, and loss of the landlords' chickens due to errors by the tenants in their care.

Issue(s) to be Decided

As to the damages, this matter requires a decision on each of the landlords' numerous claims on whether the damages occurred, whether the tenants were responsible for those damages and whether the compensation claimed are precise or reasonable costs of remediation. A further decision is required on whether the landlord is authorized to retain the security deposit in set off.

I would note that, on applications of this type, the burden of proof lies with the party making claim, and the benefit of doubt falls to the respondent.

Evidence and Analysis

This tenancy began on or about September 1, 2008 and ended on or about November 30, 2008. Rent was \$2,200 per month and the landlord holds a security deposit of \$1,100 paid on September 5, 2008.

This was a somewhat challenging dispute due to the large number of items claimed and the fact that this three-month tenancy was the landlords' first experience at renting, they have very high standards and expectations, and the 4,000 square foot house operates at times as a bed and breakfast, and the parties agreed on very little.

The landlords claim and I find as follows:

Cost of restarting chicken business. The landlords claim \$800 to restart their chicken business after the tenants failed to properly secure the hen house and a number of chickens fell prey to raccoons.. The landlord said there were 60 chickens, the tenant, 26. In any event, I find that any agreement with respect to the chicken business is not part of the tenancy agreement and I dismiss this part of the claim.

Unpaid rent/loss of rent. The landlords claim unpaid rent for November of \$2,200 and a rent shortfall of \$1,100 for October. The tenant concurred that the November rent was not paid but states the shortfall for October was \$700. I accepted the tenant's accounting and find that the tenants owe the landlords \$2,900 in unpaid rent.

Cleaning House and Property. The landlords claim 30 hours labor at \$30 per hour for a total of \$900. The tenant stated that they had the home professionally cleaned before move out. On the basis of photographic evidence, I find that the house and property did

require cleaning, but I find this claim to be inordinately high and grant a reduced award of \$300.

Clean up dog excrement. The landlords claim 5 hours at \$40 per hour for a total of \$200 for cleaning up dog droppings. I find, on the balance of probabilities, that this claim is exaggerated and reduce the award to \$20.

Carpet cleaning - \$252. The landlords provided a receipt in support of this claim and, on the grounds that carpet cleaning is a common charge to tenants at the end of the tenancy, and on the basis of photographic evidence and the fact the tenants had pets, , I find this claim to be reasonable and allow the full \$252.

Reactivate hot tub. I accept the evidence of the tenants that the hot tub was never used and dismiss the landlords' claim for \$194.

Two NSF cheques. Regulations permit a maximum charge of \$25 for an NSF cheque; therefore, the landlords claim is reduced to \$50.

Broken brooms. The landlords claim \$50 for replacement to two broken brooms, one of which was conceded by the tenant. I allow \$20 for this claim.

Interior light bulb replacement. The landlords claim \$130.65 for replacement of light bulbs. The tenants concede many burned out bulbs but suggest the extraordinarily high failure rate was due to inadequately ventilated recessed lights. In the absence of authoritative evidence on the question, I must find that the claim is inordinately high and reduce the award to \$20.

Outdoor solar lights. The landlords claim \$120 for replacement of six outdoor solar lights. The tenant conceded that two were broken and others simply failed. He stated

the solar lights were plastic Noma lights, available at much less than the \$20 per light claimed. I allow \$20 in total for this part of the claim.

Firewood. The landlords claim \$200 for a chord of firewood used by the tenants without authorization. The tenant stated it was half a chord. I allow \$75 for this part of the claim.

Toilet brush holder. The landlords claim \$50 for a broken toilet brush holder of which the tenant claims no knowledge. I allow \$10 for this claim.

Bathroom fan repair. The landlords claim \$50 for repair of the bathroom fan. I am not persuaded that the failure of the fan is attributable to the tenants and dismiss this claim.

Hot tub cover. The landlords claim \$600 to replace the damaged hot tub cover of which the tenants claim no knowledge. As the cover was outdoors and the damage could have been caused by animals, falling branches, etc., I cannot be certain this is attributable to the tenants and dismiss the claim.

Small washer. This claim apparently pertains to a bucket with a mop ringer for which the landlords clam \$115. I am doubtful as to the value of this claim and dismiss it.

Sink basket. I allow the claim for \$5.25 for replacement of the sink basket.

Cleaning supplies and light bulb. The landlords submitted a receipt, and I allow this claim for \$31.30.

Weather stripping chewed by dog. The tenant conceded this damage but questioned the clam of \$100. I concur and reduce the award to \$20.

Garbage cleanup. The tenant stated there was no more garbage when the rental unit was left than was there at the beginning of the tenancy. The landlord stated there were 27 bags of garbage, the tenant said six. I believe this charge would have been partially included with the yard and dog cleanup and reduce the landlords claim for \$600 to \$50.

Dry cleaning of drapes. The landlord claims \$1,541.19 for dry cleaning of drapes at the end of the tenancy, necessitated, she said, because of residual pet odor. I must reject a claim of this size on the balance of probabilities that a tenancy of such short duration would probably have warranted such high cleaning costs and on the grounds that the landlords chose such an expensive option on their own discretion.

Pails. The landlords claim \$50 and \$65 for the replacement of garden and chicken feed pails respectively. As these were outdoor items subject to other influences, and due to the size of the claim, I cannot find for certain that the tenants were responsible for the pails. This part of the claim is dismissed.

Filing fee hearing preparation costs. As I find merit in the landlords' application, their claim to recover the \$100 filing fee for this proceeding is allowed. However, there is no mechanism available under which they can be compensated for their claims for photographic evidence, ICBC charges and Canada Post charges.

Glass for table. This \$300 claim is against a glass top on a table kept outdoors about which the tenants claim no knowledge. As the glass was vulnerable to influences other than the tenants, I cannot be certain it is the tenants' responsibility and dismiss the claim.

Five missing inserts in kitchen drawers. I find these are the responsibility of the tenants and allow the \$20 claimed.

Maintenance work. The landlords have not delineated the difference between routine maintenance and extraordinary maintenance attributable to the tenants on this \$500 claim. Therefore, it is dismissed.

Cracked tile at door entrance. The landlords claim \$350 to repair a cracked tile at the front entrance. The tenant claims the crack was there at the beginning of the tenancy but concedes it is larger than before. I find the tenant responsible for \$20 of the repair.

Broken screen doors. The landlord claims, supported by photographic evidence, that the tenants and their dog damaged the two screen doors. I allow \$50 of the landlords' claim for \$200.

Broken micro-wave oven. The tenant stated that the micro-wave oven flashed on its first use and therefore, they put it away and used their own thereafter. I cannot be certain that this device failed as a result of misuse by the tenants. The claim for \$300 is dismissed.

Broken recycle bin. This had not been repaired or replaced and, having no idea as to the cost of doing so, I must dismiss this claim.

Repair mirror in master bedroom. The tenant was adamant that the mirror in the master bedroom was left as it was found and the landlord has not proven the \$300 damage claimed. This item is dismissed.

Therefore, I find that the tenant owes the landlord an amount, including filing fee and authorization to retain the security deposit in set off as follows:

Unpaid rent (November – \$2,200 and October - \$700)	\$2,900.00
Cleaning house & property	300.00
Clean dog dropping	20.00
Carpet cleaning	252.00
NSF fees	50.00
Broken brooms	20.00
Light bulbs	20.00
Broken outdoor solar lights	20.00
Firewood	75.00
Toilet brush holder	10.00
Sink basket	5.25
Cleaning supplies	31.30
Weather stripping	20.00
Garbage cleanup	50.00
Filing fee	100.00
Kitchen drawer inserts	20.00
Cracked tile	20.00
Screen doors	50.00
Sub total	\$3,963.55
Less retained security deposit	- 1,100.00
Less interest (Sept. 1, 2008 to date)	- 5.50
TOTAL	\$2,858.05

Thus, the landlords' copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, in the amount of \$2,858.05 for service on the tenants.

March 26, 2009.

Dispute Resolution Officer