

# Dispute Resolution Services

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

## Decision

Dispute Codes: MND, MNR, MNSD, FF

## Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing by registered mail sent to the forwarding address provided by the tenants. The landlord also submitted a copy of a print-out from Canada Post showing that the registered mail was refused by the recipients. I was satisfied that the tenants were properly served with the application for dispute resolution and notice of hearing and the hearing proceeded in their absence.

## Issue(s) to be Decided

Is the landlord entitled to a monetary order as claimed.

## Background, Evidence and Analysis

The landlord submitted a copy of the tenancy agreement which showed that the tenancy began on July 15, 2008 and was set to continue for a fixed term, ending on July 14, 2009. The rent was set at \$1,500.00 per month and on July 11, 2008 the tenants paid a \$750.00 security deposit. The landlord also submitted a copy of a letter from the tenants dated October 13, 2008 and received according to the landlord on November 13, 2008 advising that the tenants would be vacating the rental unit as of December 15, 2008. The landlord testified that on December 1<sup>st</sup> she discovered that the tenants had abandoned the rental unit. The tenants did not pay any rent in the month of December. I address the landlord's claims and my findings around each below.

1. **Unpaid rent and loss of income.** The landlord claims \$1,500.00 in unpaid rent for the month of December and \$300.00 in loss of income for the first 6 days in January. I find that the tenants were bound by the terms of the lease and obligated to pay rent

for the month of December and failed to do so. I find the landlord is entitled to recover the unpaid rent for that period. The landlord testified that the rental unit was re-rented on January 7, 2009. The landlord is also entitled to recover loss of income for the first 6 days in January. In the month of January, the tenants would have paid \$48.39 per day in rent. I find the landlord is to recover \$290.34 in loss of income for the first 6 days of January. The landlord is awarded a total of \$1,790.34.

2. **Unpaid utilities.** The landlord claims \$331.31 in unpaid utilities for the period from December 1 – January 6. The landlord entered into evidence an invoice from Pacific Northern Gas showing that \$275.29 was due for the period from December 1 – January 7. The landlord also entered into evidence an invoice from BC Hydro showing that \$56.02 was owing for that same time period. The tenancy agreement provides that the tenants are responsible for utilities. I find the landlord is entitled to recover the cost of the utilities and I award the landlord \$331.31
3. **Liquidated damages.** The landlord claims \$600.00 in liquidated damages pursuant to the following term in the tenancy agreement:

If the tenant ends the fixed term tenancy before the end of the original term ... the landlord may treat this Agreement as being at an end. In such event, the sum of \$600.00 will be paid by the tenant to the landlord as liquidated damages, and not as a penalty. Liquidated damages covers the landlord's costs of re-renting the rental unit and must be paid in addition to any other amounts owed by the tenant, such as unpaid rent or for damage to the rental unit or residential property.

The landlord testified that her costs of re-renting the unit include advertising, taking calls from prospective tenants, paying an agent to show the suite and organizing contractors for repair. I am satisfied that the liquidated damages provision is not a penalty and I find that the tenants ended the fixed term and are therefore liable to pay liquidated damages. I award the landlord \$600.00.

4. **Carpet cleaning.** The landlord claims \$210.00 as the cost of cleaning the carpets at the end of the tenancy. The tenancy agreement contains a provision whereby the tenants are required to have the carpets professionally cleaned at the end of the tenancy. The landlord testified that the tenants failed to clean the carpets and

entered into evidence a copy of a receipt showing that this sum was paid to a carpet cleaning service. I find that the tenants failed to clean the carpets pursuant to the terms of the tenancy agreement and find that the landlord is entitled to recover the \$210.00 paid to clean the carpets. I award the landlord \$210.00.

5. **Suite cleaning.** The landlord claims \$280.00 as the cost of cleaning the suite at the end of the tenancy. The landlord testified that the tenants performed no cleaning whatsoever at the end of the tenancy and she entered into evidence a copy of a receipt showing that this sum was paid to a cleaning service. I find that the tenants failed to clean the rental unit at the end of the tenancy and find that the landlord is entitled to recover the \$280.00 paid to clean the unit. I award the landlord \$280.00.
6. **Bathroom repair.** The landlord claims \$124.92 as the cost of repairing a door in the bathroom vanity. The landlord testified that one month after the tenancy began, the bathroom was renovated with a new vanity installed. At the end of the tenancy, the landlord discovered on the natural wood door a stain which could not be removed. The landlord obtained an estimate of \$124.92 for the replacement of the door. I find that the tenants damaged the door and must be held liable for the cost of its repair. I award the landlord \$124.92.
7. **Painting.** The landlord claims \$1,291.50 as the cost of repairing damage to the walls of the rental unit and repainting the unit at the end of the tenancy. The landlord testified that the rental unit was painted approximately 6 months before the tenancy began. The landlord provided photographs showing that the corners of the walls near the entryway were damaged and further provided a copy of a receipt showing that \$1,291.50 was spent repairing the walls and repainting the unit. I find that the tenants damaged the walls and that the damage exceeded what might be considered reasonable wear and tear. However, Residential Tenancy Policy Guideline #37 lists the useful life of paint as 4 years. I find that the tenants deprived the landlord of 3 years of the useful life of the paint and must be held responsible for all of the cost of repairing the walls. The landlord's invoice for painting does not itemize the cost of wall repair and the cost of painting. I find it appropriate to reduce the award to \$1,000.00 to reflect that the paint was already one year old. I award

the landlord \$1,000.00.

8. **Vertical blind replacement.** The landlord claims \$156.79 as the cost of replacing vertical blinds in the living room, which she testified were missing at the end of the tenancy. The landlord testified that the blinds were approximately 3 years old and provided evidence showing that the replacement cost of the blinds is \$156.79. Residential Tenancy Policy Guideline #37 identifies the useful life of blinds as 10 years. I find that the tenants have deprived the landlord of 7 years of the useful life of the blinds and find that the landlord is entitled to recover 70%, or \$109.75, of the cost of the blinds. I award the landlord \$109.75.
9. **Rent difference for balance of term.** The landlord claims \$650.00 as the difference between the rent the tenants were obligated to pay throughout the term of the tenancy and the rent the new tenants were paying from January – July 15. The landlord testified that she attempted to mitigate her losses by making the rental unit more attractive to prospective renters, which included including a washer and dryer which had not been included before. The tenants who moved into the rental unit on January 7 are paying just \$1,400.00 per month as shown by their tenancy agreement which was entered into evidence. I find that the landlord is entitled to recover the difference in rent for the balance of the lease term. In the month of January, the tenants would have been paying \$48.39 per day while the new occupants paid just \$45.16 per day. The landlord is entitled to recover \$80.75 for the month of January, \$100.00 for each of the months of February – June inclusive and \$50.00 for the first half of the month of July. The landlord is awarded a total of \$630.75.
10. **Filing fee.** The landlord seeks to recover the \$100.00 paid to bring this application. I find that the landlord is entitled to recover the fee and award the landlord \$100.00.

### Conclusion

In summary, the landlord has been successful in the following claims:

Rent/loss of income	\$1,790.34
Liquidated damages	\$ 600.00
Unpaid utilities	\$ 331.31
Carpet cleaning	\$ 210.00
Suite cleaning	\$ 280.00
Bathroom	\$ 124.92
Paint	\$1,000.00
Vertical blinds	\$ 109.75
Rent difference	\$ 630.75
Filing fee	\$ 100.00
<b>Total:</b>	<b>\$5,177.07</b>

I find that the landlord has established a claim for \$5,177.07. I order that the landlord retain the deposit and interest (calculated to the date of this judgment) of \$755.35 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$4,421.72. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated February 03, 2009.