

# 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. Both parties participated in the conference call hearing and had opportunity to be heard.

The landlord submitted photographs to this office for consideration, but did not provide copies to the tenants. As the tenants were unable to see this evidence, I have not considered the photographs in my deliberations.

## Issue(s) to be Decided

Is the landlord entitled to a monetary order as claimed?

## Background and Evidence

The parties agreed that the tenancy began on January 29, 2008 and that rent was set at \$1,200.00 per month and a \$600.00 security deposit paid. Originally, three tenants were listed on the tenancy agreement. In November 2008 the tenant L.A., who is not a party to this proceeding, vacated the rental unit without giving notice to either the landlord or his co-tenants. The parties agreed that the tenants paid \$800.00 in rent for December and \$1,100.00 in rent for January. The tenants claimed that the landlord told them in December that it was OK for them to just pay \$800.00 as the third tenant had moved out, but she expected them to pay full rent in January. The tenants further claimed that in January, the landlord told them that since there were just two tenants in the unit, they could just pay \$1,100.00 per month. The landlord issued receipts for both months and did not make a notation on the receipts that the monies received did not represent full payment. The landlord denied having told the tenants that \$800.00 was sufficient for the month of December but acknowledged that she may have told them

that January's rent could be reduced to \$1,100.00.

The parties agreed that some painting was required. The tenants testified that they had made several holes in the wall and told the landlord that they would pay for the cost of paint and supplies and also offered to paint, but were told by the landlord not to worry about it. The landlord provided evidence that she paid \$520.00 to have the rental unit completely repainted. The landlord testified that the unit had last been painted approximately one year before the tenancy began in January 2008. The tenants took the position that only three walls required repainting. The condition inspection report reflects damage to thirteen walls and a note that walls in the main bathroom required painting. The tenants testified that at the beginning of the tenancy, many of the walls had small holes from thumbtacks, but they did not consider it enough of an issue to demand that the condition inspection report reflect the holes in the walls.

The parties agreed that some cleaning was required. The tenants testified that they cleaned thoroughly, but did not clean behind the refrigerator and stove and did not clean baseboards. The condition inspection report reflects that most of the bathroom was uncleaned as were windows and doors, light fixtures, window coverings and the stove, exhaust hood and fan. The landlord testified that it took her approximately 10 hours to clean the rental unit.

The landlord claims \$400.00 in unpaid rent for December, \$100.00 in unpaid rent for January, \$60.00 for carpet cleaning, \$176.20 for paint and supplies, \$520.00 for labour for painting, \$228.00 for labour for cleaning, \$35.00 for a new lock and \$50.00 for the filing fee paid to bring this application.

The tenants did not dispute the cost of carpet cleaning, paint and supplies or the cost of the new lock.

### Analysis

The tenants, including L.A., were listed together on a single tenancy agreement. Under the law, there is a presumption of joint tenancy, which means the tenants are jointly and severally liable for obligations arising under the tenancy agreement. In simple terms, this means that each individual tenant is responsible for all of the rent and all the cost of

any damages to the rental unit and the landlord may choose to pursue any or all of the tenants for unpaid rent or to recover the cost of repairs or cleaning. Although the tenants may not have been able to pay the full amount of rent due to the unexpected departure of L.A., the tenants remain liable for the full amount of rent. As the landlord has denied saying that \$800.00 was sufficient rent for the month of December and in the absence of corroborating evidence, I find that the landlord did not waive the requirement for the full amount of rent to be paid for that month and accordingly I find that the tenants are obligated to pay \$400.00 in unpaid rent for the month of December. However, as the landlord has acknowledged that she may have agreed to permit the tenants to pay just \$1,100.00 for the month of January, I find that the landlord has waived her right to rely on the terms of the tenancy agreement with respect to rent payable and is estopped from claiming the full amount of rent. The landlord's claim for \$100.00 in unpaid rent for January is denied.

As the tenants acknowledged responsibility for the carpet cleaning and a new lock, I find that the landlord is entitled to recover \$60.00 and \$33.59 for each of these claims, respectively.

As for the landlord's claim for the cost of paint, supplies and labour related to painting, the landlord must prove that the damage to the walls was beyond what might be considered reasonable wear and tear. The tenants acknowledged that three of the walls required repair and painting, but deny having caused damage to other walls. As I was unable to consider the photographs provided by the landlord, I was unable to determine whether the alleged damage could be attributed to reasonable wear and tear rather than to the tenants' action or negligence. I find it reasonable to award the landlord 1/6 of her total claim for paint and labour. The landlord claimed \$176.20 for paint and supplies and I award her \$29.37, which is 1/6 of this amount. The landlord claimed \$520.00 for labour and I award her \$86.67, which is 1/6 of this amount.

Having reviewed the condition inspection report, I find that the landlord has established that cleaning of the rental unit was required. The report reflects that there were a significant number of areas which required cleaning and I find that the landlord's 10 hours of cleaning is reasonable. However, the landlord appears to have charged \$22.80 per hour for cleaning. I find that amount to be excessive and find that a rate of

\$15.00 per hour will adequately compensate the landlord. I award the landlord \$150.00 for cleaning.

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

Unpaid December rent	\$400.00
Carpet cleaning	\$ 60.00
Lock replacement	\$ 33.59
Paint supplies	\$ 29.37
Paint labour	\$ 86.67
Cleaning	\$150.00
Filing fee	\$ 50.00
<b>Total:</b>	<b>\$809.63</b>

I find that the landlord has established a claim for \$809.63. I order that the landlord retain the deposit and interest of \$609.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$200.63. This order may be filed in the Small Claims Court and enforced as an order of that Court.

### Conclusion

The landlord is granted an order for \$200.63.

Dated April 21, 2009.