



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes

MND, MNR, MNDC, MNSD, & FF

Introduction

This hearing dealt with an application by the landlord seeking a monetary claim related to loss and damage due to the tenants' breach of the tenancy agreement and *Act*. The tenants did not appear for the hearing. The landlord provided affirmed testimony and documentary evidence in support of this application.

Service Issue:

The landlord testified that the tenants did not provide a forwarding address at the end of the tenancy and he discovered the tenants' new residence many months after the tenancy ended. The landlord testified that he observed the tenants and possessions of the tenants at the new residence including a trampoline which was at the former rental unit and the tenants' white dodge pick up truck which is used for the tenants' employment. The landlord also testified that he observed one of the tenants working on this vehicle at this address.

The landlord attempted to serve the tenants at this address by registered mail on February 21, 2009. The registered package was refused.

Section 89 of the *Act* requires that if the tenants are served by registered mail it must be to an address at which the tenants currently reside. I am satisfied, on the balance of probabilities, that the tenants currently reside at this address based on the evidence provided by the landlord.

Pursuant to section 90(a) of the *Act* I deem the tenants as having been served with notice of this application and hearing and proceeded with the hearing in the absence of the tenants.

Issues to be Determined

Has the landlord established a monetary claim related to failure to pay rent owed? Has the landlord established a monetary claim related to loss or damage caused by the tenants? Is the landlord entitled to retain the tenants' security deposit plus interest in partial satisfaction of this claim?

Background and Evidence

The landlord provided a copy of the tenancy agreement which confirms this tenancy began effective December 31, 2005 for a fixed term ending effective December 31, 2006. After this the tenancy reverted to a month to month tenancy. The monthly rent was \$1,150.00 and the tenants paid a security deposit of \$575.00 on November 20, 2005. The tenancy ended effective September 30, 2008 after the tenants gave written notice. Although the parties participated in a move-in condition inspection the tenants did not participate in the move-out condition inspection.

The landlord submits that the tenants breached the tenancy agreement in several ways. The tenants failed to upkeep and fill the propane tanks on the rental unit, the tenants failed to have written permission to have pets in the rental unit and the tenants failed to return the rental unit in a reasonable clean and undamaged state. As a result of these breaches the landlord seeks the following damages:

Claim for tenants' failure to pay legislated rent increase of \$42.55 for August and September 2008	\$85.10
Unpaid water bill	\$237.28
Damage and costs to repair and clean rental unit: Cleaning: 19hrs @ \$20.00 per hour Yard clean up: \$75.00 Clean out and up of shed/barn: \$160.00 Repair of windows: \$106.00 Labour to replace flooring: \$800.00	\$1,521.00
Replacement of missing fire alarm	\$15.66
Cost of underlay and laminate flooring materials	\$448.12
Refilling of propane tanks to 80% as supplied to tenants at start of tenancy	\$793.40
Riclock Rentals: wet/dry vacuum in attempt to clean carpets	\$31.36
Ray's Locksmithing Service: to replace locks in rental unit as tenants failed to return both sets of keys to rental unit.	\$96.51
Recovery of filing fee paid by the landlord for this application.	\$50.00
Total	\$3,278.43

The landlord provided evidence in support of these claims including photographs of the condition of the rental unit and copies of bills and receipts. The landlord also included copies of the tenancy agreement, move-in and move-out condition inspection reports and the Notice of Rent Increase.

The landlord submitted that the carpets in the two bedrooms and in the upper loft area were damaged by the tenants' unauthorized pets and could not be cleaned. As a result the landlord has replaced these areas with laminate flooring. There were no

photographs provided showing the alleged damage to the carpets. The landlord did not know the exact age of the carpets; however, he submitted that they were likely 8 to 15 years old.

Analysis

The landlord's application is granted in part. I accept the evidence of the landlord establishing the monetary sums claimed except for the following:

1. I reject the landlord's claim for costs to replace the flooring of the rental unit. Although the landlord provided oral testimony that the carpets were damaged to pet staining and had to be replaced, the landlord did not provide in evidence in support of this claim. No photographs were provided and there the move out condition inspection report only identifies that the carpet in bedroom two had odour issues due to the pets. Also given the age of the carpets which I suspect were greater than 10 years old given the apparent age of other fixtures contained in the photographs I am not satisfied that the flooring had any value. As a result I also reject the landlord's claim for the materials for the laminate flooring which has been subsequently installed in the rental unit. I find that there is insufficient evidence before me to establish that the replacement of the flooring was due to damage caused by the tenants. However, I do accept the landlord's claim to rent a wet vacuum in their attempt to clean the carpets.
2. I reject the landlord's claim to recover two months of rent increase for August and September 2008. The tenants refused to pay or deducted this sum on the basis that the landlord gave an ineffective notice of rent increase which was beyond the allowed amount. I find that the landlord cannot now seek the correct sum for that notice. If the tenancy had continued the landlord would have been required to serve a new notice of rent increase which complied with the *Act* and regulations.

I accept all the other monetary claims submitted by the landlord. I am satisfied that all the other damages were due to the tenants' breach of the tenancy agreement and *Act* and are supported by the landlord's testimony and documentary evidence.

I find that the landlord has established a total monetary claim for the sum of \$2,030.3. From this sum I Order that the landlord may retain the tenants' security deposit plus interest of \$595.35 in partial satisfaction of this claim. I grant the landlord a monetary Order for the remaining balance owed of **\$1,435.96**.

Conclusion

The landlord's application is granted in part and a monetary Order has been issued to the landlord due to damage and loss caused by the tenants' failure to comply with the tenancy agreement and *Act*.

Dated May 12, 2009.

Dispute Resolution Officer