

Dispute Resolution Services

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

Decision

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

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the pet and security deposits in partial satisfaction of the claim. The hearing was originally scheduled for March 25 at which time both the applicants and respondents attended. The respondent requested an adjournment at that time, claiming that she had not had sufficient time to assemble documents and photographs she wished to submit in response to the landlord's application. I granted the adjournment request and the hearing was scheduled to be reconvened on May 25. The tenant provided an address to which notice of the reconvened hearing could be sent and the notice was sent by the Residential Tenancy Branch to that address. The tenant did not participate in the reconvened hearing.

Issue(s) to be Decided

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The month-to-month tenancy began on May 1, 2006. The tenant paid a security deposit of \$425.00 and a pet deposit of \$212.50. The landlord testified that the tenant did not pay rent on November 1, 2008 and when questioned by the resident manager on November 2, the tenant advised him that she had given notice in September that she would be vacating the rental unit on October 30. The landlord and resident manager denied having received the tenant's notice to vacate. The resident manager served the tenant with a 10-day notice to end tenancy for unpaid rent and the tenant vacated the rental unit in mid-November. The landlord and witnesses testified that the rental unit and yard over which the tenant had exclusive use were not cleaned at the end of the tenancy and that the tenant had caused damage to the rental unit.

The landlord itemized the time spent cleaning and claimed that it took almost 55 hours to clean the rental unit and seeks recovery at a rate of \$15.00 per hour. The landlord testified that there were marks on the walls and doors which were extremely difficult to remove, window tracks were filled with dog hair and dirt, appliances were uncleaned and nail polish was on the counters and ceiling.

The landlord testified that the tenant placed indoor/outdoor carpet over the lawn in the back yard and left a child's swimming pool in the yard. The landlord testified that he had to remove and dispose of the carpet and the pool as well as other items abandoned in the yard, including a mattress and bed frame. The landlord estimated those costs at \$150.00.

The landlord testified that the tenant failed to return the keys to the door and the mailbox, which required him to incur expense to replace the locks.

The landlord testified that numerous repairs were required. Specifically, holes in the walls were patched, broken light fixtures were replaced, cupboard doors were repaired and hinges replaced, a cracked toilet bowl was replaced, stair railings were replaced, 7 closet doors which had holes in both sides were replaced, a door frame which had been split was replaced the ceiling was re-stippled in places. The landlord testified that 104 hours were spent making repairs and the landlord seeks recovery at a rate of \$15.00 per hour. The landlord further testified that 74 hours were spent repainting the rental unit and the landlord seeks recovery at a rate of \$20.00 per hour.

The landlord further testified that the sinks in the kitchen and the bathroom were damaged and that some of the plumbing had to be replaced. The landlord found three knives in the kitchen sink drain.

The landlord and the witnesses testified that the carpets in the rental unit were extremely dirty and that there was a strong odour of urine. The landlord provided a photograph showing urine stains on a floor beneath the carpet and testified that the tenant had a dog in the rental unit which had apparently urinated on the carpets. The resident manager S.H. testified that he has a carpet cleaning service which was retained by the landlord to clean the carpets. S.H. testified that he cleaned the carpets

three times and sanitized and was unable to remove the odour from the carpets on the main floor.

The landlord seeks to recover unpaid rent for November and loss of income for December and January as well as the costs of advertising the rental unit.

The landlord testified that the building was constructed in 1990 and that the cupboards and doors were original to the unit. The unit was painted in the fall of 2005, carpets and linoleum were installed in 2003, the refrigerator was replaced in 2004 and the stove in 2007.

Analysis

I accept the landlord's undisputed testimony with respect to the need for cleaning and repairs. I find that the tenant failed to clean the rental unit and that she caused the damages as alleged by the landlord. The landlord claimed a total of \$8,663.25 for materials and labour for repairs and cleaning. As the landlord is entitled to recover the value of the items at the time of the loss rather than the replacement value, I have calculated a depreciation on some of the claim. Using the depreciation table found in Residential Tenancy Policy Guideline #37, I find that the doors were near the end of their 20 year useful life and I have applied an 80% depreciation to the doors. \$667.38 was claimed for the doors; I reduce that claim by \$533.90 and I award the landlord \$133.48. I find that the tenant deprived the landlord of half of the useful life of the paint, but I find that the extensive repairs to the drywall should not have been required for many years. As the paint and drywall repairs are inextricably intertwined, I find it appropriate to apply a \$400.00 discount to the cost of materials and labour for painting. The remaining claim for the cost of materials is accepted as presented.

The landlord claimed a significant amount in labour for repairs and cleaning. The landlord bears an obligation to minimize his losses. While I can appreciate that the landlord wanted to reduce his out-of-pocket expenses by performing the labour himself, having viewed the photographs provided and heard the testimony regarding the condition of the rental unit it is clear that professionals could have performed the cleaning, painting and repairs in significantly less time. The charge for labour, which does not include the cost of removing the swimming pool or replacing the locks which

charges I accept in full, is \$3,862.50. I find that an award of \$1,600.00 will adequately compensate the landlord.

As for the landlord's claim for loss of income for the months of November – January inclusive and advertising costs, I accept that the landlord is entitled to recover rent for November and find that there were enough repairs required to grant a further entitlement of one half of December. However, I find that the landlord's choice to perform the repairs and cleaning himself led to his inability to complete these tasks until the end of December. The claim for loss of income for the latter half of December and for January is dismissed. The landlord is awarded \$1,320.00 for loss of income. As the tenancy was a month-to-month tenancy, I find that the tenant should not be held liable for the cost of advertising regardless of the condition in which she left the rental unit. The claim for recovery of advertising costs is dismissed.

I find that the landlord is entitled to recover the \$100.00 filing fee paid to bring this application and I award the landlord that sum.

Conclusion

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

Materials (less \$933.90 discount for depreciation and less \$217.94 in advertising costs)	\$3,868.85
Swimming pool removal and yard cleaning	\$ 150.00
Lock replacement	\$ 30.00
Labour	\$1,600.00
Loss of income	\$1,320.00
Filing fee	\$ 100.00
Total:	\$7,068.85

I find that the landlord has established a claim for \$7,068.85. I order that the landlord retain the security and pet deposits and interest of \$658.99 in partial satisfaction of the

claim and I grant the landlord an order under section 67 for the balance due of \$6,409.86. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated May 25, 2009.
