

## **DECISION**

**Dispute Codes:** MND, FF

This hearing dealt with an application by the landlord for a monetary order for costs incurred in addressing the damages.

On June 25, 2008, the landlord collected a security deposit from the tenant in the amount of \$350.00. The tenancy began on July 1, 2008 for a fixed term ending June 30, 2009. Rent in the amount of \$700.00 was payable in advance on the first day of each month. On May 31, 2009, the tenant moved out of the building.

Both parties agreed that on March 1, 2009 at approximately 1 pm, there was a flood in the tenant's unit and the common hallway area outside of the unit.

The landlord described the discovery of the flood as follows. On March 1, 2009 around 1 pm, he noticed the carpet of the common hallway area outside of the tenant's unit to be wet. He then knocked on the tenant's door. He waited for approximately 5 minutes before the tenant answered the door. During the 5 minutes, he heard commotion inside the tenant's unit as if something was being moved. When he entered the tenant's unit, he found that the tenant's portable washing machine was disconnected and placed in the foyer area of the unit. He also found the tenant's unit to be flooded. To support his claim, the landlord submitted numerous photos showing the flood in the common hallway area and the tenant's unit and the washing machine in the tenant's unit when he entered the unit. The landlord contended that the tenant's washing machine had caused the flood. The landlord added that for the past 5 months, he had tried to recover the costs of the repair and restoration from the tenant and the tenant had consistently disputed the costs but not the cause of the flood.

The tenant disputed that her washing machine had caused the flood. She said that her washing machine has a limited capacity and could not have output so much water. She maintained that the flood was caused by a leaking toilet and therefore the landlord should be responsible. She also contended that the landlord's claim was motivated by her complaints about thefts and repairs needed in her unit.

The tenant said that on March 1, she was in her unit before the discovery of the flood and that she had used her toilet in late morning on that day. I find unreasonable that the tenant would not have noticed that the toilet was flooding before 1 pm. I have therefore not accepted her contention that it was the toilet that caused the flood. I also find insufficient proof that the washing machine could not have output a large amount of water. Based on the above, I find on the balance of probabilities that the landlord has proven that the tenant's portable washing machine had caused the flood in both the common hallway area and the tenant's unit. Accordingly, I also find that the tenant is responsible for the costs incurred in addressing the resulting damages.

The landlord is claiming \$1800.02 as costs incurred in addressing the damages. To support his claim, the landlord submitted 1) three invoices for the completed repairs and restoration, 2) estimates from two other companies to complete the same work, and 3) an opinion from a restoration consultant regarding the quoted costs. The tenant maintained that the costs were inflated due to her complaints regarding theft and repairs needed in her unit. Based on the two comparables and the opinion from a restoration consultant, I find that the landlord has proven the costs as claimed to be reasonable and not inflated as the tenant had maintained. I therefore allow a claim for \$1800.02.

The landlord has established a total claim of \$1800.02. He is also entitled to recovery of the \$50.00 filing fee. During the hearing, the landlord requested to amend the application to include an order for him to retain the security deposit in

partial satisfaction of the claim. The tenant did not dispute the landlord's request in this regard. I also find the landlord's request to be reasonable. I therefore allow the amendment. Accordingly, I order that the landlord retain the security deposit and interest of \$352.73 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1497.29. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated August 04, 2009.