



# Dispute Resolution Services

Residential Tenancy Branch

Ministry of Housing and Social Development

## **DECISION**

### **Dispute Codes:**

MNR, MNSD, MNDC, MND, FF

### **Introduction**

This hearing was convened in response to an application by the landlord for:

- A Monetary Order to recover rental arrears, damage to the rental unit, and for money owed or compensation for damage or loss under the Act, Regulation or tenancy agreement.
- An order to retain the security deposit in partial satisfaction of the monetary claims.
- Recovery of the filing fee associated with this application in the amount of \$100

The tenant vacated the rental unit, therefore this decision only deals with matters pertaining to a monetary claim.

This matter was originally convened on October 26, 2009, at which time both parties attended the conference call hearing and provided affirmed testimony in respect to preliminary matters on evidence, timelines of the tenancy, and other particulars of the tenancy including start and end times of the tenancy, rent amounts and start and end of tenancy inspections. The merits of the landlord's monetary claims were not heard. The hearing was adjourned by consent of the parties to ensure the exchange of all evidence in respect to the application, and each agreed to today's date and time. The tenant advised they had again moved and would not divulge new address for security reasons. Tenant was advised it would be prudent to ensure mail forwarding via the post office, and maintain contact with RTB, to receive evidence and other matters related to the hearing.

I accept the tenant was informed of today's proceedings; and, that despite having been so informed, the tenant did not participate in today's conference call hearing.

The landlord's claim on application is as follows:

Cleaning – 2 people, 24 hrs. \$20/hr.	\$960.00
Cleaning supplies	\$104.70
Garbage disposal	\$35.10
Replacement of interior doors (4) with jambs and hardware - product	\$580.05
Labour for install of doors @ \$40 per door	\$160.00
New bi-fold doors for laundry	\$148.99
Replace laminate flooring - product	\$615.72
Labour to install flooring – 2 people, 16 hrs. \$20/hr	\$760.00
Drywall replacement	\$1616.66
Paint	\$401.49
Painting labour – 2 people, 12 hrs. \$20/hr.	\$480.00
Baseboards - product	\$450.00
Cabinets	\$800.00
Replacement of woodstove pipe	\$600
Re-keying of locks	\$128.70
Replacement of drapes and blinds	\$151.70
New microwave oven	\$75.00
Rent for June, July and August (1/2 month)/09	\$2275.00
Utility – Hydro for June, July, August/ 09	\$300.00
Finishing work	\$192.36
Construction waste disposal	\$112.18
Filing fee for this application	\$100.00
<b>Total of landlord's claim on application</b>	<b>\$11047.65</b>

**Issue(s) to be Decided**

Is the landlord entitled to the monetary amounts claimed ?

### **Background and Evidence**

The tenancy began on June 15, 2008 and ended June 01, 2009. Rent in the amount of \$950 was payable in advance on the first day of each month, plus the cost of utilities. At the outset of the tenancy both parties waived a start of tenancy inspection – agreeing that there was no damage to the rental unit. The landlord consequently collected a security deposit from the tenant in the amount of \$50. Due to the circumstances at the end of the tenancy, an end of tenancy inspection was not conducted.

The undisputed testimony of the landlord is that after a period of approximately one year, the landlord came home on June 01, 2009 to discover the tenant had vacated the rental unit without notice. The landlord determined the residential property was left, “filthy” with pet feces strewn about, urine saturated floors and walls, garbage and rotting foodstuffs. After considerable cleaning effort the landlord determined the unit was damaged by the saturation of urine in the flooring, walls and behind the baseboards, and the bottoms of the doors in the unit. The laminate had lifted in several areas from what appeared to have been water damage or urine saturation. Linoleum flooring had some burn marks and some permanent stains. The doors had further been scratched and permanently stained by feces and urine and the door jambs had been damaged. All window coverings had been broken. All the appliances had been left unclean - “filthy”. Build-up in the oven had at some point caught fire, and the dishwasher had to be taken apart due to food build-up. Cabinetry was left very dirty and could not be well-cleaned, and some required replacement. Also, the landlord-supplied microwave oven was missing from the unit. After much cleaning the landlord obtained the opinion of a contractor whom recommended replacing the urine saturated walls with new drywall. A professional “WETT certified” contractor was employed whom recommended the replacement of the woodstove piping, as it appeared that materials had been burned which had melted and caused a dangerous coating and narrowing inside the pipe. The landlord suspects the tenant burned a variety of garbage in the stove including plastics, causing the build-up in the piping.

After considerable work repairing the renal unit it was again rented out August 15, 2009.

The landlord submitted document and oral evidence in support of the monetary claims, as well as a quantum of photographs, receipts and invoices for the majority of the work and materials involved.

### **Analysis**

I have considered all evidence and submissions to this claim and have considered all testimony given in the hearing.

On the preponderance of all the evidence advanced, and on the balance of probabilities I am satisfied the landlord is entitled to unpaid rent for the month of June, and for the period of July 1 – 15, 2009 as this is the length of time which I find is a reasonable period in which to have completed the remediation of the rental unit and re-rent it. The landlord has stated that they each have full time jobs and could not afford to work on the repairs full time. **I grant** the landlord loss of rental revenue, and I find the landlord is entitled to **\$1425** in lost rent.

I must emphasize that in order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. Moreover, the applicant must satisfy each component of the test below:

#### **Test For Damage and Loss Claims**

1. Proof the damage or loss exists,
2. Proof the damage or loss were the result, solely, of the actions or neglect of the other party in violation of the *Act* or agreement
3. Verification of the actual amount required to compensate for the claimed loss or to rectify the damage.
4. Proof that the claimant followed section 7(2) of the *Act* by taking reasonable steps to mitigate or minimize the loss or damage.

As well, when a claim is made by the landlord for damage to property, the normal measure of damage is the cost of repairs (with some allowance for loss of rent or loss of

occupation during the repair), or replacement. In such a case, the onus is on the tenant to show that the expenditure claimed by the landlord is unreasonable.

Therefore, the claimant bears the burden of establishing each claim on the balance of probabilities. The claimant must prove the existence of the damage or loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify *the actual monetary amount of the loss or damage*. Finally, the claimant must show that reasonable steps were taken to address the situation and to reasonably mitigate the damage or losses that were incurred.

On the balance of probabilities and on the preponderance of all the evidence before me, I find the landlord has sufficiently met the test for their claim of damages and loss in respect to the majority of their claim.

I will grant the landlord \$15 per hour toward their own labour.

**I find** the landlord has not met the test for a claim in respect to payment of a second person for CLEANING the rental unit. Therefore, I deduct \$480 from the landlord's claim in this regard, and adjust the landlord's own labour to reflect \$15 per hour for a monetary award of **\$360** for this claim - without leave to re-apply.

The landlord testified it required just over one (1) hour to install each new door and jamb. **I find** the landlord is entitled to five (5) hours of labour for this claim in the amount of **\$75** without leave to reapply.

The landlord has not supported their claim for a second person's labour to install the flooring. **I find** the landlord is entitled to 16 hours of their own labour in this regard in the amount of **\$240** without leave to reapply.

The landlord has not supported their claim for a second person's labour for painting. **I find** the landlord is entitled to 1 hours of their own labour for painting in the amount of **\$180** without leave to reapply.

**I find** the landlord has not met the test for damage and loss in respect to the need to replace cabinets; therefore, **I dismiss** this portion of the landlord's claim without leave to reapply.

**I find** the tenant cannot be held liable for the cost of utilities for a period of time after the tenant vacated the residential property. The claim for Utilities – Hydro is therefore **dismissed** without leave to reapply.

As I have dismissed the landlord's claim for CABINETS, I find I must deduct an amount for finishing work in relation to cabinets. The hereby grant the landlord **\$75** for FINISHING WORK.

**I find** the landlord has met the test for all other claims for damage and loss and is entitled to their recovery.

**I find** the landlord's application has merit, and the landlord is therefore entitled to recovery of the filing fee from the tenants for the cost of this application in the amount of **\$100**.

**I order** that the landlord retain the deposit **\$50** in partial satisfaction of the landlord's entitlement claim.

As for the monetary order, I find that the landlord has established an entitlement as follows:

Cleaning	\$360.00
Cleaning supplies	\$104.70
Garbage disposal	\$35.10
Replacement of interior doors (4) with jambs and hardware - product	\$580.05
Labour for install of doors	\$75.00
New bi-fold doors for laundry	\$148.99
Replace laminate flooring - product	\$615.72
Labour to install flooring	\$240.00

Drywall replacement	\$1616.66
Paint	\$401.49
Painting labour	\$180.00
Baseboards - product	\$450.00
Cabinets	\$ .00
Replacement of woodstove pipe	\$600
Re-keying of locks	\$128.70
Replacement of drapes and blinds	\$151.70
New microwave oven	\$75.00
Total loss of revenue to re-rent date of August 15/09	\$1425.00
Utility – Hydro for June, July, August/ 09	\$ .00
Finishing work	\$75.00
Construction waste disposal	\$112.18
Filing fee for this application	\$100.00
<i>Security deposit</i>	<i>-\$50.00</i>
<b>Total of landlord's entitlement</b>	<b>\$7425.29</b>

### **Conclusion**

I grant the landlord an order under Section 67 of the Residential Tenancy Act for the amount of **\$7425.29**

If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated November 04, 2009.