



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MND, MNR, MNSD, MNDC

### 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 were represented at the conference call hearing.

### Issues(s) to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The parties agreed that the tenancy began in September 2008 and ended on June 13, 2009. The parties further agreed that monthly rent was \$850.00 per month and that a \$425.00 security deposit was paid at the outset of the tenancy.

The facts which are undisputed are as follows. The tenants performed work for the landlord and were paid separately for that work as they submitted invoices. The tenants were specifically told by the landlord that they could remodel the kitchen in the rental unit and the landlord paid for the materials and for the work performed and invoiced by the tenants while they lived in the rental unit. The tenants painted parts of the rental unit during the tenancy. The tenants did not pay rent for the months of May or June. On June 2, 2009 the tenants gave the landlord notice that they would be vacating the rental unit and they did vacate the unit on June 13. Shortly after the tenants vacated the rental unit, the landlord's agent L.C. decided to move into the rental unit. She did not move into the unit until sometime later.

The landlord seeks to recover unpaid rent for the months of May and June, loss of income for July, the \$2,600.00 cost of hiring a contractor to complete the kitchen renovation which was not completed by the tenants and \$2,000.00 of additional work for which they hired a contractor. The landlord provided copies of invoices from the contractors who performed the repair work in the rental unit, but these invoices are not specifically itemized to show costs for each piece of work performed.

The landlord testified that a contractor had to install 2 shelves in a hall closet that had been removed by the tenant and had to repaint the unit. The landlord testified that the repainting cost \$600.00 and that prior to this tenancy, the unit had last been painted in 2007. The landlord acknowledged that some of the work done by the contractors to the rest of the rental unit was done because the unit required upgrading. The landlord acknowledged that the only work done by the contractor which was not upgrading was the installation of the shelves, the replacement of missing door handles and repainting of the unit.

The tenants testified that they asked the landlord to deduct the rent owing for the month of May from monies payable to the tenants for work performed but the landlord did not do so. The tenants further testified that they wanted to complete the kitchen renovation in lieu of paying June's rent, but after they vacated the rental unit they were not permitted access to the unit to complete the work. The tenants testified that the hall closet did not have shelves at the time they moved in and further testified that after they painted the unit the landlord verbally told them that he liked the colour. The tenants claimed that the door handles had been left in a bucket in the rental unit.

### Analysis

It is clear on the facts of this case that the parties had two contractual arrangements between them: a tenancy agreement and an agreement for handyman services. I find that the two contracts were unrelated. The tenants had a history of paying their rent each month and were paid for invoices submitted to the landlord. I find that the tenancy agreement falls under the jurisdiction of the Act but the agreement for services does

not. I find that the tenants did not have the right to demand that the landlord deduct their rent from the payment for services and as the landlord in fact paid them in full for services performed, I find that there is no reason why the landlord is not entitled to be paid the full rent for the month of May. I award the landlord \$850.00 in unpaid rent for May. I find that the landlord had no obligation to accept the tenants' offer to complete the kitchen renovations in lieu of unpaid rent. The tenants did not complete the renovations and there is no reason why the tenants should be excused from paying rent for the month of June. I award the landlord \$850.00 in unpaid rent for June. While it is true that the tenants gave late notice that they were vacating the rental unit, the landlord bore the obligation of acting quickly to minimize their losses. The landlord chose to keep the rental unit available for the landlord's agent to occupy and I find that the tenants cannot be held responsible for loss of income flowing from that decision. Since the landlord approved the renovations to the kitchen, I also find that the tenants cannot be held responsible for the time it took to complete the renovations. The claim for loss of income for July is dismissed.

The landlord chose to renovate the kitchen and paid the tenants for the time and labour expended on that task. I see no reason why the tenants should be held liable for the cost of completing the renovation when the landlord had already agreed to pay for both materials and labour. The claim for the cost of kitchen renovations is dismissed.

I find that the landlord has not proven that the hall closet had shelves at the beginning of the tenancy and therefore I am unable to find the tenants liable for the cost of replacing those shelves. I accept that the tenants removed the door handles, as they testified that the handles were in a bucket. The landlord submitted no invoice showing the cost of replacing the door handles, so I assume that the only cost they incurred was the cost of re-installing the handles, a cost which has not been specified in the invoice. I find that \$30.00 will adequately compensate the landlord for that labour. I further accept that the rental unit had to be repainted. Residential Tenancy Policy Guideline #37 identifies the useful life of paint as 4 years. I find that the tenant deprived the landlord of the use of 50% of the life of the paint. I accept that \$600.00 is a reasonable cost to claim for

painting and accordingly find that the landlord is entitled to recover 50%, or \$300.00, of that cost. I award the landlord \$630.00.

The landlord did not claim recovery of the filing fee paid to bring their application and I have therefore not addressed it in this decision.

### Conclusion

I find that the landlord has established a claim for \$2,330.00 which represents unpaid rent for May and June and \$630.00 for painting and replacing door handles. I order that the landlord retain the \$425.00 security deposit and the \$2.12 in interest which has accrued in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,902.88. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: January 14, 2010

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