

## **DECISION**

**Dispute Codes:** MNDC, LAT, R and RR

### **Introduction**

This application was brought by the tenant seeking a Monetary Order for loss or damages under the legislation or rental agreement on the grounds that the rental unit was not suitable for occupancy at the beginning of the tenancy. The tenant also seeks a rent reduction, and an order for repairs, including authorization to change the locks.

### **Issues to be Decided**

This application requires a decision on whether the tenant is entitled to the remedies and compensation sought in the application.

### **Background, and Analysis**

This tenancy began on November 4, 2009. Rent is \$1,150 per month including hydro and the landlord holds a security deposit of \$550 paid on or about October 31, 2009. The rental building is a 12 year old cement and stone house which had been unoccupied for a year prior to this tenancy.

During the hearing, the tenant submitted the following claims, and I find on each as follows:

**General Cleaning - \$125.** The tenant stated that when she was moving in, a couple of items belonging to the property manager were still in the rental unit and she had her movers place them outside. She stated that the rental unit had much dust throughout and some cobwebs higher up that required five hours cleaning. As the tenant is writing a book, she had explained to the landlord that she needed to have the home clean on moving in.

The landlord and property manager stated they had spent four days cleaning before the move in and the property manager said he had worked until 4 a.m. the night before. They said they had cleaned every corner in the rental unit, including working on the nearly 25-foot ceiling from a ladder but had missed the cupboards. The property manager concurred that there may have been some residual airborne dust that settled after the cleaning and that some of it may have resulted from the tenant moving in. I accept the landlord's evidence that the rental unit was substantially cleaned and allow the tenant \$65 for the lighter work required during and after the move in.

**Heat loss - \$200.** The tenant stated that a second fire place was not in place and the insulated chimney was left open until January 4, 2010 resulting in added heating costs of an estimated \$200. The tenant stated that she had gone through \$350 worth of wood and \$300 propane for heating during the material time.

The landlord gave evidence that the rental building is heated by a state of the art in-floor circulating hot water system and the chimney opening would have had little effect. The property manager said he had intended to install another fireplace from the landlord's existing stock but none had been suitable. He sealed off the opening on January 4, 2010 and noted that it was only four feet above floor level.

Section 7 of the *Act*, imposes a duty on a party suffering a loss to do whatever is reasonable to minimize their loss. In this instance, given that the opening to the chimney was easily accessible, I find that the tenant could have eliminated the loss by plugging the chimney with suitable cloth or even paper materials. Therefore, this part of the claim is dismissed.

**Loss of dry goods - \$24.46.** The landlord has already reimbursed the tenant \$24.46 for dry goods lost as a result of mice in the rental unit. She states she had further losses but has been unable to replace them as the supplier is not currently open. As the loss has not been quantified, I decline to make any further award on this part of the claim.

**To tend to mouse traps - \$100.** The tenant makes claim that due to mice in the rental unit, she was required to empty mouse traps five times.

The landlord stated that she had engaged a pest control company at a cost of \$221.83 to set traps and to inspect the home for routes of entry for mice. The tenant states that the landlord instructed the pest control company that the tenant would tend to the traps but the landlord states she did not do so. In the absence of corroborating evidence, I am unable to reach a conclusion on this item and it is dismissed.

**Cleaning up after mice (December) - \$300.** The tenant claims \$300 for cleaning up as a result of the mice in the rental unit and submits a number of photographs in support of the claim. I find this claim is unreasonably high and award the tenant \$30 for loss of quiet enjoyment on this issue.

**Power outage - \$100.**

The tenant claims \$100 in compensation for a 24-hour period during which the power was off in the rental unit, a cause of added inconvenience as the water pump depended on hydro service. The property manager gave evidence that restoration of service was delayed a little because he was preoccupied with tending to a frozen water pump at the landlord's home, and a first glance, it appeared the problem arose on the hydro grid. However, in attempting to utilize the property's generator, he realized the problem was local. Having done so, he was unable to obtain a needed replacement fuse until the following day. Residential Policy Guideline 6-2 advises that, "Temporary discomfort or inconvenience does not constitute a basis for a breach of quiet enjoyment." For that reason, I make no award on this claim.

**Rent Reduction – to \$600 per month.** The tenant holds that, because the rental unit was not perfectly fit for occupancy from the beginning of the tenancy and because some problems remain, the rent should be reduced to \$600 per month. As noted in the previous reference to loss of quiet enjoyment, temporary discomfort or inconvenience does not constitute a basis for a breach of quiet enjoyment. I find that the matters in dispute are not sufficient to warrant a reduction in rent.

**Authorization to change locks.** The tenant gave evidence that she has been requesting without satisfaction a key to the second door in the rental building. The property manager stated that neither he nor the landlord have a key for the lock in question and as it is about 10 feet from the other door, he did not consider it a matter of urgency. I find that the tenant is entitled to have keys for all exterior doors **and hereby authorize and order the landlord to replace the lock and provide the tenant with a key within 15 days of receipt of this decision.** (This may already have been accomplished as the landlord promised this remedy during the hearing.)

**Repair dripping tap.** The tenant requests a repair order for a dripping tap which services the washing machine. The property manager gave evidence that he had examined it, but found the tap located in such a manner that he did not have the tools

required to make the repair. He said the tap does not drip when turned off and expected the tenant could turn it off in the interim. Given the propensity for drips to worsen over time and the potential harm of pooling water, **I hereby authorize and order that the landlord engage a plumber to make the repair within 15 days of receipt of this decision.**

In total, I find that the tenant is entitled to monetary compensation calculated as follows:

General cleaning	\$65.00
Cleanup after mice	30.00
<b>TOTAL</b>	<b>\$95.00</b>

### **Conclusion**

The tenant may hold back \$95 from the rent due for March 2010 in recovery of the monetary award granted herein. The landlord is ordered to repair the lock on the second door and the dripping tap within 15 days of receipt of this decision.

February 16, 2010