

## **DECISION**

Dispute Codes      MNR, MNSD, OPR, CNC, MNDC, FF

### **Introduction**

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit and a cross-application by the tenant for an order setting aside a notice to end this tenancy and a monetary order. Both parties participated in the conference call hearing.

At the hearing the parties agreed that the tenant had vacated the rental unit. As the tenancy has ended, I consider the claims for an order of possession and an order setting aside the notice to end the tenancy to have been withdrawn.

### **Issues to be Decided**

Is the landlord entitled to a monetary order as requested?

Is the tenant entitled to a monetary order as requested?

### **Background, Evidence and Analysis**

The parties agreed that the tenancy began on May 1, 2009 and ended on or about April 26, 2010. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$625.00. Rent was set at \$1,250.00 per month. I address the claims and my findings around each as follows.

Landlord's Claims:

- [1] **Unpaid rent and late charges.** The landlord seeks to recover \$1,250.00 in unpaid rent for April as well as a \$25.00 late payment charge pursuant to the terms of the tenancy agreement. The tenant admitted that she did not pay rent in April. I find that the landlord is entitled to recover the rent and late payment fee for April and I award the landlord \$1,275.00.

- [2] **Suite cleaning.** The landlord seeks to recover \$253.50 as the cost of cleaning the rental unit at the end of the tenancy. The landlord provided a copy of the condition inspection report which was signed by the tenant and notes that most of the rental unit was dirty. The landlord's agent who was at the unit at the time the condition inspection report was completed testified that while some cleaning had been performed, the cleaning was inadequate. The landlord provided a copy of an invoice for cleaning showing that \$253.50 was charged for cleaning the unit. The tenant testified that she hired someone to do cleaning for her and was disappointed that the person she hired had not been more thorough. The tenant further testified that although she signed the condition inspection report, she does not agree that it accurately reflects the condition of the unit at the end of the tenancy and claimed to have signed the report only because the landlord's agent asked her to. I find that it is more likely than not that the rental unit required further cleaning at the end of the tenancy. The tenant admitted that she was not pleased with the work performed by the person she hired and I find that at the time she signed the condition inspection report, she agreed with it. I do not accept that the tenant signed the report just because the landlord requested her to do so. The tenant has no difficulty expressing her opinions verbally or in writing and I find it difficult to believe she would sign an inaccurate report just because she was asked to do so. I find that the landlord is entitled to recover the \$253.50 spent on cleaning and I award the landlord that sum.
- [3] **Carpet cleaning.** The landlord seeks to recover \$131.25 paid to clean the carpet in the rental unit. The landlord testified that the carpet required cleaning at the end of the tenancy and provided an invoice showing that \$131.25 was paid for that service. The tenant acknowledged that she did not clean the carpet. I find that the landlord is entitled to recover the \$131.25 spent on carpet cleaning and I award the landlord that sum.
- [4] **Painting.** The landlord seeks to recover \$1,147.47 spent repainting the rental unit. The landlord testified that the rental unit was last painted in April 2008 and that when the tenant vacated the rental unit, there were numerous marks and dents in

the walls that had to be repaired. The tenant testified that her movers caused the dents in the walls. I find that the tenant and/or her movers caused damage to the walls which is beyond reasonable wear and tear and that the unit had to be repainted. Residential Tenancy Policy Guideline #37 identifies the useful life of interior paint as 4 years. I find that the tenant deprived the landlord of one half of the life of the paint and I find that the landlord is therefore entitled to recover one half of the cost of repainting. I award the landlord \$573.74.

- [5] **Garage door repair.** The landlord seeks to recover \$489.30 as the cost of repairing the garage door at the end of the tenancy. The landlord testified that the lower panels of the garage door were damaged at the end of the tenancy and the hardware for the roller was damaged and had to be replaced. The landlord provided an invoice showing that \$489.30 was spent repairing the garage door. The damage was not noted on the move-out condition inspection report. The landlord's agent who was present at the time the condition inspection was performed testified that she did not note the damage because on a deficiency list that the tenant supplied shortly after the tenancy began there was a note that the garage door was dented. The landlord testified that the note on the deficiency list refers to the access door which leads from the garage to the rental unit. The landlord testified that he spoke with the tenant and asked her what happened to the garage door, to which the tenant replied that she had no idea. The tenant testified denied having had this conversation and testified that there was nothing wrong with the garage door. The tenant claimed that she had photographs which showed that the garage door was in working condition, but did not provide copies of the photographs to the Residential Tenancy Branch or to the landlord. I find it more likely than not that there was damage to the garage door at the end of the tenancy. I find it unlikely that the landlord would pay to repair a garage door which, as the tenant claims, had nothing wrong with it. I accept that the reference to the garage door on the deficiency list refers to the access door to the rental unit rather than the large door through which cars would enter the garage. I award the landlord \$489.30.

[6] **Garage door opener.** The landlord seeks to recover \$75.00 as the cost of replacing a garage door opener. The tenant acknowledged that she did not return the garage door opener. I find that the landlord is entitled to recover the cost of replacing the device and I award the landlord \$75.00.

[7] **Filing fee.** The landlord seeks to recover the \$50.00 paid to bring this application. I find that the landlord is entitled to recover the fee and award the landlord \$50.00.

Tenant's Claims:

**Excess Hydro.** The tenant claims \$2,800.00 in compensation for excessive hydro bills she paid during the tenancy which she claims was the result of the landlord's failure to perform repairs. The tenant testified that there is a heater in the garage and that every time the garage door was opened, the heater would activate to heat the garage. The tenant testified that she first noticed this in August, brought it to the landlord's attention and was told that the heat was on a timer and operated occasionally so the pipes wouldn't freeze. The tenant claimed that throughout the winter her heating bills were excessively high and that finally in March the landlord arranged for repairs to be performed. The tenant estimated that throughout her tenancy it cost her an additional \$200.00 per month in hydro bills and seeks to recover this cost from the landlord. The tenant submitted a copy of a BC Hydro invoice for the period from December 2 - February 1 which showed that she was invoiced \$449.17 for that period. The landlord testified that the issue with the heater was not brought to his attention until March 10 and an electrical problem was repaired March 12. The tenant bears the burden of proving her claim on the balance of probabilities. There is no corroborating evidence to show that the tenant complained to the landlord any earlier than March 10. I find that the tenant has not proven that she complained to the landlord in August as she claimed and therefore find that the landlord cannot be held liable for any loss experienced as a result of an issue he was unaware of. The tenant's claim is dismissed.

## Conclusion

In summary, the tenant's claim is dismissed in its entirety and the landlord has been successful in the following claims:

Rent and late fee	\$1,275.00
Suite cleaning	\$ 253.50
Carpet cleaning	\$ 131.25
Paint	\$ 573.74
Garage door repair	\$ 489.30
Garage door opener	\$ 75.00
Filing fee	\$ 50.00
<b>Total:</b>	<b>\$2,847.79</b>

I find that the landlord has established a claim for \$2,847.79. I order that the landlord retain the \$625.00 security deposit partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,222.79. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: June 04, 2010

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