

## **DECISION**

**Dispute Codes:** *MND, MNR, MNSD, MNDC, FF*

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order to recover the costs of cleaning, repairs, loss of income, advertising and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her claim.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Has the landlord established a claim for costs incurred to clean and repair the rental unit? Is the landlord entitled to loss of income, advertising costs and the filing fee? Is the landlord entitled to retain the security deposit in satisfaction of her claim?

### **Background and Evidence**

The tenancy started on August 01, 2006 for a fixed term of one year. The lease was renewed every year for a further fixed term of one year. Rent was \$1,475.00 per month due on the first of the month. The tenant paid a security deposit in the amount of \$700.00. The tenancy ended on May 02, 2010.

The landlord advertised the availability of the unit and found a tenant for June 01, 2010. The new tenant moved in a week earlier and paid a prorated rent of \$380.64 for May.

During the tenancy, starting May 2009, the building underwent some restoration work and the tenant was exposed to noise and dust for a period of nine months. The landlord temporarily reduced the rent by \$125.00. Approximately one month before the tenancy ended the landlord personally cleaned the rental unit while the tenant was away.

The landlord stated that the tenant did not clean the unit prior to moving out and caused some damage to the walls and closet doors. The landlord filed receipts and photographs to support her monetary claim. The photographs indicate two burnt out vanity bulbs, broken kitchen light fixture, cracked tile, broken baseboard and some dirt left behind in a corner of a room, the inside of the oven, the inside of kitchen cabinets and minor damage to a wall and closet door.

The tenant stated that she attempted to find a tenant for the balance of the lease but was not successful. She stated that she cleaned the unit and filed photographs to show the condition of the unit as she left it. The tenant also gave the landlord a cheque for \$100.00 which she stated covered her portion of rent for May. The landlord stated that she has not cashed this cheque.

The landlord is claiming the following:

1.	Rent for May 2010	\$1,475.00
2.	Advertising	\$43.22
3.	Move out fee	\$50.00
4.	Film and developing photographs	\$10.57
5.	Cleaning Supplies	\$45.59
6.	Locksmith	\$48.15
7.	Vanity bulbs	\$33.49
8.	Replace kitchen light fixture	\$19.03
9.	Carpet cleaning	\$171.50
10.	Screws	\$2.22
11.	Toggle bolts	\$3.06
12.	Halogen lights	\$17.61
13.	BC Hydro	\$23.23
	<b>Total</b>	<b>\$1,942.67</b>

The landlord has also claimed \$232.33 which represents the balance of the security deposit after the cost of cleaning and repair is deducted. This landlord's claim for this balance is for damage to two kitchen tiles, kitchen stove, stains on sink, damage to kitchen wall, closet wall and door and chipped baseboard. The landlord stated that she has not repaired the above items and has not yet incurred a cost for the same.

### **Analysis**

#### **1. Rent for May 2010**

Section 45(2) of the *Residential Tenancy Act* states that a tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that:

- (a) Is not earlier than one month after the date the landlord receives the notice
- (b) Is not earlier than the date specified in the tenancy agreement as the end of the tenancy and
- (c) Is the day before the day in the month on which the tenancy is based that rent is payable under the tenancy agreement.

The tenant moved out on May 02, 2010, thereby ending the fixed term tenancy prior to the end date of July 31, 2010 as specified in the tenancy agreement. Therefore the landlord is entitled to any loss of rent up to the earliest time that the tenant could have legally ended the tenancy. The landlord advertised the availability of the suite and found a tenant for June 01, 2010. The new tenant moved in early and paid prorated rent for May in the amount of \$380.64. Since the landlord has not yet cashed the tenant's cheque for \$100.00, I find that the landlord is entitled to **\$1,094.36** which represents the loss of income suffered by the landlord.

#### **2. Advertising**

The tenant breached a term of the agreement by ending the tenancy prior to the end date of the fixed term. The landlord mitigated her losses by advertising the vacancy and thereby finding a tenant for June 01. Therefore, I find that the landlord is entitled to the cost of advertising in the amount of **\$43.22**.

3. Move out fee

The landlord has filed evidence of having incurred this cost and is therefore entitled to **\$50.00** towards the moving fee.

4. Film and developing photographs

The legislation does not permit me to award any litigation related costs other than the filing fee. Therefore the landlord's claim for \$10.57 for photographs is dismissed.

5. Cleaning supplies

Based on the photographs filed by both parties, I find that the tenant cleaned the unit prior to moving out. Therefore, the landlord's claim for \$45.59 for cleaning supplies is dismissed.

6. Locksmith

The landlord and tenant agree that one set of keys to the mailbox was supplied and returned. The landlord stated that the tenant's daughter had a copy of the keys. The tenant disputed this. The landlord went ahead and changed the locks to the mailbox, despite having received the keys from the tenant. I find that the landlord must bear the cost of changing the locks.

7. Vanity bulbs

The landlord is claiming \$33.49 for the bulbs and has filed a receipt to support her claim. The evidence shows that two bulbs needed replacement and the landlord testified that the above amount is the cost of twelve bulbs. Therefore, I find that the landlord is entitled to **\$5.58** which is the prorated cost of two bulbs.

8. Replace Kitchen light fixture

The tenant stated that she did not damage this fixture. She stated that the light stopped working and could have been the result of the banging from the ongoing restoration work.

I find that it is more likely than not, that the damage to the ceiling fixture was not caused by the tenant. Therefore the tenant is not responsible for the cost to replace the fixture.

9. Carpet Cleaning

Residential Tenancy Policy Guideline #1 addresses **Landlord & Tenant –**

**Responsibility for Residential Premises.** In part, this guideline provides as follows:

The tenant is not responsible for reasonable wear and tear to the rental unit or site (the premises), or for cleaning to bring the premises to a higher standard than that set out in the *Residential Tenancy Act*. An arbitrator may also determine whether or not the condition of premises meets reasonable health, cleanliness and sanitary standards, which are not necessarily the standards of the arbitrator, the landlord or the tenant.

The photographs filed by the tenant indicate that the tenant cleaned the unit prior to moving out. The landlord filed one photograph that shows a small amount of dirt in the corner of the room. Based on the evidence of both parties, I find that the tenant cleaned the carpets prior to moving out. In addition the landlord had steam cleaned the carpet one month prior to the end of tenancy. Therefore I find that the tenant is not responsible for the cost of the additional cleaning of the carpet.

10. Screws

11. Toggle bolts

The landlord has made a claim for \$2.22 for screws and \$3.06 for toggle bolts required to repair the rental unit. Reasonable wear and tear refers to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion. An arbitrator may determine whether or not repairs or maintenance are required due to reasonable wear and tear or due to deliberate damage or neglect by the tenant.

I find that it is more likely than not that damage that requires repair involving a small amount of screws and bolts is a result of wear and tear and not neglect on the part of the tenant. Therefore the landlord's claim for the cost of these items is dismissed.

12. Halogen lights13. BC hydro

The landlord has made a claim of \$17.61 for halogen lights and \$23.23 for hydro costs but did not file any evidence to support her claim. Therefore her claim for these items is dismissed.

The landlord also made a claim for \$232.33 for damage to two kitchen tiles, kitchen stove, stains on sink, damage to kitchen wall, closet wall and door and chipped baseboard. The landlord stated that she has not repaired the above items and has not yet incurred a cost for the same. Therefore the landlord's claim for this amount is dismissed.

The landlord has proven a portion of her claim and therefore I will award the landlord half the filing fee

I find that the landlord has established a claim for the following:

1.	Rent for May 2010	\$1,094.36
2.	Advertising	\$43.22
3.	Move out fee	\$50.00
4.	Vanity bulbs	\$5.58
5.	Filing fee	\$25.00
	Total	<b>\$1,218.16</b>

Overall the landlord has established a claim of \$1,218.16. She currently has in her possession the tenant's security deposit of \$700.00. I order that the landlord retain the security deposit of \$700.00 plus the accrued interest of \$22.73 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$495.43.

This order may be filed in the Small Claims Court and enforced as an order of that Court.

**Conclusion**

I grant the landlord a monetary order for the amount of **\$495.43**.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 06, 2010.

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Dispute Resolution Officer