

DECISION

Dispute Codes MND, MNDC, FF

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for damage to the rental unit and money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The landlord's representative (the landlord) testified that she sent the tenants copies of the application for dispute resolution by registered mail on June 7, 2010. She provided Canada Post Tracking Numbers to confirm these mailings. The tenants confirmed having received this document and the subsequent evidence package and amendment to the original application for dispute resolution. I am satisfied that the landlords served these documents in accordance with the *Act*.

Issues(s) to be Decided

Are the landlords entitled to a monetary Order for damage to the rental unit caused by the tenants during their tenancy? Are the landlords entitled to recover all or a portion of their filing fee for this application?

Background and Evidence

This fixed term tenancy for furnished rental premises commenced on December 1, 2008. The tenants moved out by the September 30, 2009 scheduled end date of this tenancy. Monthly rent was set at \$7,500.00. The landlords have returned the tenants' security deposit, pet damage deposit and furnishings deposit. The parties confirmed that a joint move-in condition inspection report was prepared and completed on

December 2, 2008. The parties also attended a joint move-out condition inspection on September 29, 2009 and signed the report of that inspection. A copy of these signed inspection reports was entered into evidence by the landlords.

The landlords' June 4, 2010 application for dispute resolution sought a monetary Order of \$7,613.47 for damage to the rental unit and cleaning costs. The landlords amended their application on September 27, 2010, increasing their requested monetary Order to \$8,904.02 for the following revised list of items. As noted, they included a column for the date that their work was completed in this amended application.

Date Work Completed	Item	Amount
September 21, 2009	Carpet & Upholstery Cleaning	\$252.00
October 5, 2009	Dry Cleaning of Linens	264.25
October 6, 2009	Wall Repair	112.83
October 8, 2009	Hardwood Floors - Quote	100.00
December 22, 2009	Linen Replacement	1,189.44
June 4, 2010	Recovery of Filing Fee for this application	100.00
August 16, 2010	Moving Cost for Furniture while Floors being Repaired	268.80
August 23, 2010	Restoration of Hardwood Floors-Main Floor	4,264.17
August 23, 2010	Restoration of Hardwood Floors-Upper Floor	1,949.33
August 24, 2010	Cleaning after Floor Restoration	134.40
August 25, 2010	Moving Cost for Furniture while Floors being Repaired	268.80
	Total Monetary Order Requested	\$8,904.02

The landlord entered into evidence copies of the signed residential tenancy agreement, an inventory list, photographs of the condition of the rental premises after the tenants left the rental unit, and various other letters and receipts pertaining to this matter.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, a Dispute Resolution Officer may determine the amount of that damage or loss and order

that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/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.

Floors

At the hearing, the tenants admitted that their two dogs did cause damage to the hardwood floors at the rental premises. This was noted on the move-out condition inspection where “major damage to h/w floor thur out” (as this appeared in the original) was identified in most areas of the unit. However, the tenants testified that the hardwood floors had been subject to wear and tear when they moved into the premises, a claim that I find confirmed to an extent by some of the statements on the move-in condition inspection report. In that report, staining on some of the steps seems to have been noted by the statement that there were “heavy marks, scuffed.” The landlord did not dispute the tenants’ assertion that the landlords’ colour photographs indicated some of this discolouration on the steps.

The landlord testified that the floors were so badly damaged by the tenants that they required repair and that the premises were not rented to anyone else until approximately six months later. The tenants noted that the repairs to the floors did not occur until August 2010, almost one year after they ended their tenancy. They said that the landlord’s photographs appeared to have been taken after someone else had commenced living in these premises, claiming that there was some different furniture in place in the photographs.

I accept that much of the damage to the hardwood floors resulted from the tenants’ two dogs and as such I find the tenants partially responsible for the landlords’ costs of refinishing this flooring. However, as is noted in Residential Tenancy Policy Guideline 37, hardwood floors have an approximate life span of 20 years, and the landlord did not

know when the hardwood floors were last refinished. In deciding on a monetary award for the floor refinishing costs, I also take into account the fact that the landlord waited almost 11 months after this tenancy ended before repairing the hardwood floors. During much of this period, the rental premises were vacant. While I accept that the tenants' actions precipitated the refinishing of these floors, the damage caused does not seem to have been so severe that the landlord needed to undertake this work immediately. This work was not completed until months after the landlord submitted his application for dispute resolution. I also find the tenants' evidence regarding the timing of the photographs more credible than the landlords' evidence in that it appears that these photos may have been taken while someone else was living in the rental premises.

Having considered all of the evidence, including the condition inspection reports, the photographs and the oral testimony of the parties, I find that the landlord is entitled to a monetary award in the amount of \$3,000.00 for refinishing the hardwood floors in the rental premises. I allow \$200.00 of the landlords' claim for moving furniture from the rental unit while the refinishing of the floors was conducted. I allow \$50.00 of the landlords' claim for cleaning the rental premises after refinishing the floors.

Linens

The tenants provided undisputed oral testimony that the landlord did not ask them to sign an inventory list of the furnishings until June 2010, many months after they commenced their tenancy. They did not sign this list and said that they were not responsible for linens and other furnishings that the landlord maintained went missing during their tenancy.

The landlord has not met the burden of proving that the tenants were responsible for the landlords' loss of linens and other furnishings claimed. The landlord did not obtain a signed inventory of the items that came with the furnishing of these rental premises. I dismiss the landlords' application for a monetary award for linens and other items that they maintain went missing as a result of this tenancy.

Cleaning Costs

The tenants also said that the landlord arbitrarily decided to incur cleaning costs after they left the rental premises but before the end of their tenancy. They testified that they intended to conduct a thorough cleaning of the rental premises before the end of their tenancy agreement on September 30, 2009.

Whether the tenants conducted this cleaning or if the landlords did so, I accept that the rental premises still needed to be cleaned, including the linens, before the end of this tenancy. I award the landlords cleaning costs of \$252.00 for carpet and upholstery cleaning and \$264.25 for the dry cleaning of linens as submitted by the landlords.

Wall Repair

I allow the landlord's application for \$112.83 for repair of damage to one of the walls.

Filing Fee

Since the landlords have been partially successful in this application, I allow the landlord to recover \$50.00 of their filing fee from the tenants.

Conclusion

I issue a monetary Order in the landlords' favour in the following terms, which includes a return of a portion of the landlords' filing fee for this application.

Item	Amount
Carpet Cleaning	\$252.00
Dry Cleaning of Linens	264.25
Wall Repair	112.83
Repair of Hardwood Floors	3,000.00
Moving Cost for Furniture while Floors being Repaired	200.00
Cleaning	50.00
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$3,929.08

The landlords are provided with these Orders in the above terms and the tenant(s) must be served with a copy of these Orders as soon as possible. Should the tenant(s) fail to

comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

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*.