



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

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

Introduction

These two hearings dealt with an Application for Dispute Resolution by the Landlords for an order of possession, monetary orders for unpaid rent, for damage or cleaning at the rental unit, for compensation under the Act and the tenancy agreement, to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The first hearing was adjourned to allow further exchange of evidence between the parties.

The Tenant had vacated the rental unit prior to the hearing, and therefore, an order of possession was no longer required.

Issue(s) to be Decided

Are the Landlords entitled to the monetary compensation sought from the Tenant?

Background and Evidence

This tenancy began on September 1, 2009, with the parties entering a standard form, written tenancy agreement. The parties agreed to a monthly rent of \$650.00, payable on the first day of the month. The Tenant paid a security deposit of \$300.00 on September 1, 2009, and a pet damage deposit of \$290.00 in September of 2010. I note interest is not payable on these deposits in 2009 or 2010. There was an addendum to the tenancy agreement containing additional terms.

On October 31, 2010, the Tenant gave the Landlords a written one month Notice to End Tenancy, to be effective on December 1, 2010. The Landlords informed the Tenant that the effective date of the Notice should have been November 30, 2010.

On November 1, 2010, the Tenant did not pay all of the rent due, but made a partial payment of \$300.00. On November 2, 2010, the Landlord served the Tenant's boyfriend personally with a 10 day Notice to End Tenancy for unpaid rent.

On or about November 8, 2010, the Tenant vacated the rental unit, although she did not inform the Landlords she was moving her possessions out. The Tenant did not supply the Landlords with a forwarding address until she provided her evidence for these hearings.

These actions by the Tenant caused the Landlords to be concerned that the Tenant was trying to evade them. As a result there was much confusion between the parties and police had to contact the Landlords to ask them to refrain from contacting the Tenant. The Tenant testified that she felt she was being harassed by the Landlords.

The Landlords applied for substituted service during this time, although that request was denied. The Landlords also filed an Application for Dispute Resolution prior to this Application, although their first Application was abandoned.

The Landlords testified that the Tenant informed them on November 8, 2010, that she was not returning to the rental unit, during a telephone conversation.

The Landlords claim they have incurred or will incur costs to clean and repair the rental unit due to the condition it was left in by the Tenant.

The Landlords claims as follows:

a.	November rent and late fee	400.00
c.	Repair window blinds and light fixture	37.83
d.	Repair bathtub caulking	48.08
e.	Interior and exterior repairs, supplies and painting	334.28
f.	Photographs for evidence	29.37
g.	Damages to cedar hedge	73.70
h.	Play box sand replacement	57.90

i.	Exterior cleaning	12.00
j.	Fire pit repairs	18.00
k.	Reduced rent for new renters in unit	100.00
l.	Carpet cleaning	60.09
m.	Cleaning drapes	12.00
n.	Gas to travel to rental unit and for materials	100.00
o.	Cleaning supplies and replace toilet seat	33.75
p.	Padlocks	8.99
q.	Vent filters	4.99
r.	Courier service	25.00
s.	Replace locks at rental unit	50.00
t.	Screen door materials and repair	74.00
u.	Filing fees for first Application and Substituted service	75.00
v.	Filing fee	50.00
	Total claimed	1,856.98

The Landlords claim the Tenant had garbage and other debris stored in the yard of the rental unit in October of 2010, and this attracted the mice into the rental unit. The Tenant replied that she had informed the Landlords about an infestation of mice in October of 2010.

The Landlords claimed the Tenant damaged window blinds and a light fixture. The Tenant denies damaging the light fixture, but testified she was unsure about damage to the blinds.

The Landlords did not supply evidence of how the Tenant may have damaged the bathroom caulking. The Tenant testified that the Landlords were to re-caulk the bathtub, but failed to do this.

The Landlords claim the Tenant smoked in the rental unit, contrary to the terms of the Tenancy Agreement. The Landlords claim they had to repaint portions of the interior of the rental unit due to the smell and stains of the smoke. The Landlords also claim the Tenant damaged portions of the interior walls in the rental unit. The Tenant denies having smoked in the rental unit.

The Landlords allege that the Tenant's boyfriend damaged the cedar hedges around the property. The Tenant testified that some of the hedges were damaged when her

boyfriend used a weed eater to trim around them. She testified that they tried to save these, but were unsuccessful.

The Landlords claim the Tenant left the sandbox uncovered and that cats were leaving feces in the sandbox. The Landlords had to replace the sand. The Tenant testified her mother cleaned the sand out of the sandbox.

The Landlords claim the Tenant moved a fire pit in the back yard and this had to be repositioned. The Tenant replied that she moved the fire pit to install a children's swimming pool, and did not know she had to put the fire pit back.

The Landlords testified that due to the condition the rental unit was left in by the Tenant, they had to reduce the rent for the incoming new renter by \$50.00 per month for two months. The Tenant made no reply to this claim.

The Landlords claim the Tenant did not clean the carpet or drapes before she left the rental unit. The Tenant replied that she did not clean the drapes, although she borrowed a carpet cleaner from a friend.

The Landlords testified that the Tenant broke the lid on the toilet seat and that they had to purchase cleaning supplies to clean up after the Tenant vacated. The Tenant replied she was not sure about the toilet seat being damaged.

The Landlords claim they had to replace the locks at the rental unit and the padlocks for the exterior gate, as the Tenant did not return the door keys. The Tenant testified she had had left the keys inside the rental unit.

The Landlords claim the Tenant damaged the screen door at the rental unit and they had to repair this. The Tenant replied that this door did not fully close when she first moved in.

Analysis

Based on the above, the testimony and evidence, and a balance of probabilities, I find the Tenant breached the Act and tenancy agreement, as she failed to pay all rent due for November of 2010, failed to repair window blinds and a light fixture, failed to repair

damage to the interior and exterior of the rental unit, damaged the hedge, failed to clean the exterior, failed to replace the fire pit, failed to clean the carpets and drapes, damaged the toilet seat and screen door at the rental unit. I find that these breaches have caused the Landlords to suffer losses.

I find the Tenant abandoned the rental unit on or about November 8, 2010, when she told the Landlords she was not returning to the rental unit.

I dismiss the Landlords' claims for mice extermination, bathtub caulking, play box sand replacement, and vent filters, as I find the Landlords had insufficient evidence to prove these claims against the Tenant.

I dismiss the Landlords' claims for recovery of the cost of photographs, gas to travel, and for courier fees, as these costs are not recoverable under the Act.

I dismiss the claims for the filing fees for the first Application, as it was abandoned by the Landlords, and for substituted service, as this Application was dismissed.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Landlords have established a total monetary claim of **\$1,264.64** comprised of the above described amounts for the rent, blinds, light fixture, interior/exterior repairs and painting, hedges, cleaning, fire pit, reduced rent, carpet and drape cleaning, toilet seat, locks, screen doors materials, and the \$50.00 fee paid for this application.

I order that the Landlords retain the deposits of **\$590.00** in partial satisfaction of the claim and I grant the Landlords an order under section 67 for the balance due of **\$674.64**.



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This order may be filed in the Provincial Court (Small Claims) and enforced as an order 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*.

Dated: January 5, 2011.

Residential Tenancy Branch