



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MND, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim and a cross-application by the tenants for a monetary order and an order for the return of the security deposit. Both parties participated in the conference call hearing.

### Issues to be Decided

Is the landlord entitled to a monetary order as claimed?

Are the tenants entitled to a monetary order as claimed?

### Background and Evidence

The following facts are not in dispute. The tenancy began on March 1, 2010 at which time a \$625.00 security deposit was paid. Rent was set at \$1,250.00 per month. Although the parties walked through the rental unit to inspect it at the beginning and end of the tenancy, a written report was not produced. Sometime at the end of May or beginning of June the tenants severely pruned 2 shrubs on the residential property, significantly reducing their size. On June 30 the landlord served the tenants with a 2 month notice to end tenancy for landlord's use of property (the "Notice") on the basis that the property had been sold. The tenants did not pay rent in the month of July. On July 2 the tenants served the landlord with written notice that they would be vacating the unit on July 12. The tenants did indeed vacate the unit on that date. The property was sold to a third party.

The landlord testified that he should be entitled to rent for the month of July as the tenants were in the process of moving from the rental unit at the time he served the Notice on them. The tenants seek compensation pursuant to section 51 of the Act and on that basis argue that no rent was payable for the month of July.

The landlord testified that the tenants created a hole in the plywood door to the workshop and estimated that it would cost \$160.00 to repair the door. The landlord did not perform the repairs but testified that the damage affected the sale price of the rental unit. The tenants claimed that the hole was there at the time they moved into the unit.

The landlord testified that the tenants failed to adequately clean the rental unit and provided a number of photographs showing the condition of the unit. The landlord testified that he paid his girlfriend and her daughter to clean the rental unit at a rate of \$25.00 per hour for 6 hours. The landlord further claimed that the tenants failed to shampoo the carpet and claims the \$75.00 that he claimed it would have cost for him to have the carpet shampooed had he chosen to do so. The tenants testified that they fully cleaned the rental unit and shampooed the carpet and provided receipts showing that they hired individuals to perform those tasks. The tenants argued that the rental unit was not clean when they moved in and claimed that it was significantly cleaner when they vacated.

The landlord seeks the value of the shrubs which were pruned by the tenants as their size has been significantly reduced as well as what it would have cost him to remove the prunings. The landlord did not replace the shrubs or remove the prunings. The tenants testified that the shrubs required pruning.

### Analysis

Section 51 of the Act provides that a tenant who receives a notice to end tenancy under section 49 is entitled to receive the equivalent of one month's rent in compensation. While it may be true that the tenants were planning to vacate the unit anyway, by serving the Notice the landlord obligated himself to pay compensation to the tenants. The tenants enjoyed 12 days in the rental unit rent-free and are entitled to receive a pro-rated amount for July 13-31

when they were not living in the rental unit. Daily rent in July was \$40.32. I award the tenants \$766.08 which represents 19 days of rent. The landlord's claim for rent for July is dismissed.

I find that while much of the rental unit was cleaned at the end of the tenancy, there were still areas which required a more thorough cleaning. Specifically, the windows, window tracks, bathrooms and appliances required additional cleaning. I find the landlord's cleaning estimate to be excessive and find that 4 hours of cleaning would have been sufficient to address those areas. I award the landlord \$100.00 which represents 4 hours of cleaning at a rate of \$25.00 per hour.

The remainder of the landlord's claim is dismissed. In order for the landlord to establish his claim he must prove not only that the tenants caused damage or failed to clean, but that he suffered a loss as a result. The landlord presented no evidence to corroborate his claim that the sale price of the rental unit was less due to the damage allegedly caused by the tenants and as the landlord himself incurred no expense to clean carpets, repair the workshop door, replace the shrubs or remove the prunings, I find he has not proven that he suffered a loss.

As each of the parties have enjoyed some success in their applications I find it appropriate that each bear the cost of their own filing fees.

### Conclusion

The landlord has been awarded \$100.00. I order the landlord to retain \$100.00 from the \$625.00 security deposit. The tenants have been awarded \$766.08 and are also entitled to recover the \$525.00 balance of the security deposit for a total award of \$1,291.08. I grant the tenants a monetary order under section 67 for \$1,291.08. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Dated: December 03, 2010

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Dispute Resolution Officer