

## **DECISION**

Dispute Codes      MND, MNR, MNSD, FF

### Introduction

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

The landlord named 3 respondents but the tenancy agreement shows that just 2 of the 3 named respondents were listed as tenants on the tenancy agreement. The third respondent, C.Q., is an 18 year old child who resides with his mother, the respondent K.C. I find that C.Q. was an occupant rather than a tenant and that he was improperly named as a respondent. I therefore remove C.Q. as a respondent and the accompanying order is effective as against K.C. and E.Q. only.

### Issue to be Decided

Is the landlord entitled to a monetary order and if so, in what amount?

### Background and Evidence

The parties agreed that the tenancy began on January 30, 2010 and that the tenants vacated the rental unit on August 3, 2010. The parties further agreed that the tenants were obligated to pay \$1,100.00 per month in rent plus a \$10.00 per month alarm monitoring fee and that the tenants paid a \$550.00 security deposit at the outset of the tenancy. The parties further agreed that on or about July 12 the landlord served the tenants with a one month notice to end tenancy for cause which had an effective date of August 31, 2010.

The landlord seeks to recover rent and the alarm monitoring fee for the month of August as she received no rent monies in that month. The landlord testified that it was not until July 31 that the tenants advised her that they would be vacating the unit on August 3.

The tenant argued that the second page of the notice to end tenancy advised that she had to vacate the rental unit by the date set out in the notice but could move out sooner. The tenant took this to mean that she could vacate the rental unit at any time before the effective date of the notice. The tenant testified that she spoke to an information officer at the Residential Tenancy Branch who confirmed that she could vacate at any time.

The landlord seeks to recover \$4.48 as the cost of replacing one key to the rental unit which was not returned by the tenants. The tenant confirmed that she did not return one of the keys.

The parties agreed that the landlord was entitled to recover \$105.00 as the cost of replacing a bi-fold closet door in one of the bedrooms.

The landlord seeks to recover \$40.00 as the estimated cost of replacing a tile in the bathtub. The landlord testified that the tile was not broken at the beginning of the tenancy and cited the condition inspection report as evidence, stating that the report did not indicate a tile was broken. The landlord testified that the cost of replacing the tile is a “guesstimate” of the cost of tile, adhesive and grout. The tenant testified that the tile was broken before the tenancy began but that she did not notice it until several days after the start of the tenancy.

The landlord seeks to recover \$95.20 as the cost of investigating a water leak. The parties agreed that in July, the landlord arranged for a professional to attend at the rental unit to service the furnace. When the technician arrived, he discovered water on the floor of the furnace room and contacted the landlord, who authorized him to locate the source of the water. The landlord testified that the technician mopped up the water, inspected the hot water tank and was unable to find the source of the leak. In addition to billing the landlord \$95.20 to service the furnace, the technician billed an additional \$95.20 to investigate the source of the water. The parties agreed that the water had come from the bathroom when several hours earlier the bathtub, located next to the furnace room, had overflowed during an occupant's bath. The tenant testified that when the bathtub overflowed, she immediately absorbed the water in the bathroom with

towels and hadn't thought to check to see if the water had travelled elsewhere. The tenant stated that she telephoned several furnace maintenance companies and was advised that a minimum charge for servicing a furnace was \$160.00. The tenant implied that the usual cost for servicing the furnace was split into two separate invoices in order to make it appear that an additional charge had been levied for investigating the source of the water.

The landlord seeks to recover \$484.52 as the cost of replacing laminate flooring which she claims was damaged by the tenants. The landlord testified that the laminate flooring in the dining room was installed new midway through 2009 and was in excellent condition at the beginning of the tenancy. At the end of the tenancy, the flooring was water damaged and was lifting up in several places. The landlord testified that when she lifted the flooring, she discovered that the concrete beneath the underlay was wet for approximately 2 feet under the flooring. The landlord stated that she could not limit the repair to just replacing the affected pieces because it was not possible to match the colour of the laminate. The landlord provided photographs showing the damaged flooring. The tenant denied having caused any damage and theorized that the concrete under the floor was uneven as she had experienced chairs that wobbled in the dining room but not in other rooms.

### Analysis

The parties were bound by a contract which the notice to end tenancy terminated effective August 31, 2010. Although the notice to end tenancy may have indicated that the tenants could vacate the rental unit prior to the effective date of the notice, it did not indicate that the tenants would not be bound by their contractual obligation to pay rent until the tenancy was terminated. I find that the tenants were obligated to pay rent for the month of August as well as the alarm monitoring fee and I award the landlord \$1,110.00.

I find that the tenants must be held responsible for the cost of replacing the key which was not returned and I award the landlord \$3.38. I award the landlord a further \$105.00 for the agreed cost of the bi-fold closet door.

Although the move-in condition inspection report does not identify a cracked tile, I find that such insignificant damage would have been easy to miss. The landlord was unable to provide an exact figure for the cost of replacing the tile. I am not satisfied on the balance of probabilities that the tenants damaged the tile nor am I satisfied that the estimated cost of replacing the tile is accurate. The claim for the cost of repairing the tile is dismissed.

I find that the tenants caused the water to leak into the furnace room and I find that the landlord acted reasonably in instructing the furnace technician to investigate the source of the water. Apart from her hearsay testimony regarding conversations she had with furnace maintenance companies, the tenant provided no independent evidence to show that this furnace company normally charged a much higher rate to service a furnace. I am not persuaded that landlord or the furnace maintenance company manipulated the invoices to make it appear that two separate services were billed for when in fact they were not. I award the landlord \$95.20.

The laminate was installed some 6 months prior to the beginning of the tenancy. I find it more likely than not that if the laminate had warped or lifted because of uneven concrete below, it would have been at least somewhat evident prior to the end of the tenancy. The fact that water was discovered beneath the underlay suggests that excessive moisture caused the damage. It does not matter whether the moisture originated from the overfilled bathtub or from another source; I am satisfied that it occurred during the tenancy and I find it more likely than not that the tenants in some way allowed excessive moisture to seep under the flooring. I find that the laminate should have had a useful life of 10 years and that the tenants deprived the landlords of 9 years of that useful life. I award the landlord \$436.07 which is 90% of the cost of replacing the laminate.

As the landlord has enjoyed substantial success in her claim I award her the \$50.00 filing fee paid to bring the application.

### Conclusion

The landlord has been successful in the following claims:

August rent	\$1,100.00
Alarm monitoring fee	\$ 10.00
Missing key	\$ 4.48
Bi-fold door	\$ 105.00
Furnace room water sourcing	\$ 95.20
Laminate replacement	\$ 436.07
Filing fee	\$ 50.00
<b>Total:</b>	<b>\$1,800.75</b>

The landlord has been awarded \$1,800.75. I order the landlord to retain the \$550.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of \$1,250.75. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Dated: January 06, 2011

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Residential Tenancy Branch