



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the landlord, his assistant and one of the tenants.

At the outset of the hearing the landlord confirmed that they had submitted an amended application changing their claim from \$2,500.00 to \$3,470.52. The landlord states that this difference resulted from receiving additional invoices since filing his original application.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for outstanding utilities; damage repairs and clean up; flooring due to water damage; and lost revenue; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agreed the tenancy began on June 1, 2005 as a month to month tenancy with a monthly rent, at the end of the tenancy, of \$1,010.00 due on the 1st of each month and a security deposit of \$475.00 was paid.

The landlord seeks compensation as outlined in the following table:

Description	Amount
Water usage – October 2010	\$23.00
Cost of materials and labour	\$3,364.34
Half month rent	\$505.00
Flooring for bathroom due to water damage	\$250.00
Less – previous credit	(\$230.00)
Total	\$3912.34

The tenant agreed with the landlord's claim for water utilities (\$23.00) and for flooring for the bathroom due to water damage (\$250.00). Both parties also acknowledge the landlord owes the tenants \$230.00 for compensation for other matters not related to this hearing.

The landlord submitted into evidence a detailed accounting for the cleaning and repair work that was completed by a cleaning company owned by the landlord's daughter. The details indicate the cleaning company provided cleaning services; painting and wall preparation; replacement of switch plate covers; reparation of cabinetry; flooring installation preparation; drywall installation; cabinetry staining; plumbing; and lawn cutting.

The submitted an additional bill for hydro, dated September 10, 2010 confirming the tenants usually owed \$23.00 on a monthly basis and a quotation for new flooring for the entire rental unit, dated November 2, 2010, in the amount of \$3,912.02 – the landlord has made no claim for replacement flooring. The landlord has s

The document itself included totals for labour of \$950.00; supplies of \$579.25; 10% management fee of \$152.92; 10% profit of \$152.92. The landlord submitted that this total was \$3,364.34. During the hearing this amount was recalculated to be \$1,835.09.

The landlord also submitted into evidence a document entitled "Security Deposit Return" dated November 11, 2010 outlining the same general items and work required to the rental unit and that states the costs were materials at \$403.02; labour to do repairs \$595.00; "dump" run at \$76.00.

The landlord provided a document entitled "Room Report" that, according to the landlord's testimony, shows the condition of the rental unit at the start of the tenancy (in the spaces provided for answers) and at the end of the tenancy (in the left hand margin of the page). There is no legend in the document and the landlord has used various methods to convey condition, such as check marks; "no"; "yes"; "good" and other short narratives.

Analysis

To be successful in a claim for compensation resulting from damage or losses, the party making the claim must provide sufficient evidence to establish the four following criteria:

1. That a loss or damage exists;
2. The loss or damage results from a violation of the Act, regulation or tenancy agreement;
3. The value of that loss or damage; *and*
4. Steps taken, if any, to mitigate the damage or loss.

While I disagree with the tenant's assertion that the landlord's daughter is in a conflict when she acted as a cleaning contractor for the landlord, I note from the accounting of the work that she completed that she completed work not normally restricted to a cleaning company.

Specifically, the landlord's daughter's company completed painting and wall preparation; replacement of switch plate covers; reparation of cabinetry; flooring installation preparation; drywall installation; cabinetry staining; and plumbing. As such, I find that the daughter's company was acting on behalf of the landlord and not as a contractor to the landlord.

As such, the landlord and in this case his agent must provide sufficient evidence to establish the value of the loss or damage. I find the landlord or his agent provided no invoices or receipts for any work or materials completed between the time the landlord provided his "Security Deposit Return" document to the tenants stating that they owed him \$352.20 and December 28, 2010.

I find the landlord has failed to establish that the claim should be increased from the original amount that he identified to the tenants in the document dated November 11, 2010 entitled "Security Deposit Return". In that document the landlord stipulates the cost of materials was \$403.02 and that a dump run was completed for \$76.00 – no receipts were submitted.

In the original demand to the tenants, the landlord does not claim any lost rent resulting from the cleaning or repairs. The landlord did identify in that document outstanding water usage (\$23.00); a credit owed to the tenants (\$230.00); and a calculation of the security deposit and interest (\$491.82). In addition, the landlord has identified \$595.00 as the cost of labour to complete the repairs.

I accept, based on the tenant's agreement that the tenant's do owe the landlord for water usage and for the flooring replacement in the bathroom and I accept the tenants are due a credit for matters outside of this hearing. I find the landlord has failed to establish the value of the cost of materials and supplies or the cost of the completion of a dump run and I therefore dismiss that portion of the landlord's claim.

I find the document used to record the condition of the rental unit at the end of the tenancy to be insufficient to validate the condition of the rental unit as it was difficult to follow and the agent used confusing statements such as "Prepped for painting". In normal usage, I would understand that to mean the tenant had prepared the unit painting, yet the landlord is claiming for preparing for painting.

However, as the tenant did not disagree, in large part, with the assertions in the report, I will accept the document to reflect the condition, in large part, of the residential property at the end of the tenancy. As a result, I accept the landlord has established a need for work to be completed and based on this record and the photographic evidence provided

I accept that a reasonable amount for the labour involved in this clean up would be \$595.00 as outlined in the landlord's "Security Deposit Return" document.

In regard to the landlord's assertion that the work required was not completed until the first week of December and that he could not show the unit until that time, I find that there was nothing restricting the landlord from showing the unit during the month of November to have a tenant available for December 1, 2010. In addition, the landlord provided no evidence as to why the work could not have been completed by December 1, 2010, as it was being completed by his daughter acting on his behalf.

As a result, I dismiss the portion of the landlord's application seeking rent for ½ month for the month of December 2010.

Conclusion

Based on the above, I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$638.00** comprised of \$595.00 cleaning and repairs; \$250.00 bathroom flooring; and \$23.00 water usage less \$230.00 previously agreed to credit to the tenants.

As the landlord was only partially successful in his application, I dismiss his claim to recover the filing fee for his application.

I order the landlord may deduct the security deposit and interest held in the amount of \$491.82 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$146.18**. This order must be served on the tenants and 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: March 23, 2011.

Residential Tenancy Branch