

DECISION

Dispute Codes: *MND, MNDC, MNSD, FF.*

Introduction.

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*.

The landlord applied for a monetary order for the cost of repairs, cleaning, painting, printing ink, mailing costs and the filing fee. The tenant applied for the return of the security deposit, printing ink, mailing costs, lost wages and the cost of repair to the phone line. The tenant requested that her application be amended to include the recovery of the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to a monetary order to recover the cost of repairs, cleaning, and painting? Is the tenant entitled to the return of the security deposit, lost wages and costs to repair the phone line? Are both parties entitled to the cost of ink, postage and the filing fee?

Background and Evidence

The tenancy started on December 01, 2010 and ended on March 30, 2011. The monthly rent was \$750.00. Prior to moving in, the tenant paid a security deposit of \$375.00.

The tenant testified that at the start of the tenancy, the phone line was not functioning and she contacted the telephone company. A technician was sent to fix the phone line and the tenant was billed \$65.65 for the service. The tenant is claiming reimbursement of this amount from the landlord. The landlord stated that he was not informed of the problem and therefore was not responsible for the cost of fixing the phone line.

The tenant stated that the landlord allowed her to use firewood that was stored in the house. The first few times that she used the wood stove, smoke filled the house. However, this problem resolved on its own with subsequent use of the wood stove.

The tenant received some fire damaged birch wood which she moved into the rental unit for use in the wood stove. The landlord stated that the use of this burnt wood

caused a build up in the chimney and even though he had had the chimney cleaned just prior to the start of the tenancy, he had to get it done just four months later, for safety reasons. The landlord is claiming this expense from the tenant.

The landlord stated that the presence of this wood inside the rental unit caused a layer of soot to settle on everything inside the home. This caused the carpets to appear black and the unit needed extensive cleaning after the tenant moved out. The landlord is claiming the cost of renting a steam cleaning machine and the cost of labor to clean the rental unit. The landlord filed a receipt for the steamer rental.

The tenant stated that she cleaned the home and steamed the carpet prior to moving out. The tenant filed photographs that depict the condition of the home before and after the tenancy.

The landlord also filed photographs showing a pile of fire wood inside the home, a damaged vane on the kitchen blinds, damaged driveway, mud hole in the yard, condition of the carpets etc.

The landlord stated that the plastic prongs on one vane of the kitchen blinds were broken and he is claiming \$149.99 to replace the blinds. The landlord filed an estimate and has not yet incurred the cost of replacing the blinds. The landlord stated that the tenant's sofa and chair left marks on the wall and he is claiming the cost of fixing and repainting the damaged area.

Both parties are claiming the cost of printing ink and postage. The landlord is also claiming the cost of his time spent to put this application together.

The landlord is claiming the following:

1.	Cleaning of chimney	\$128.80
2.	Rental of rug cleaner	\$72.70
3.	Replace blinds	\$149.99
4.	Cleaning	\$200.00
5.	Ink for printer	\$112.77
6.	Mailing costs	\$31.72
7.	Painting	\$110.00
8.	Time to put this application together	\$60.00
	Total	\$865.98

The tenant is claiming the following:

1.	Repair of phone line	\$65.65
2.	Lost wages	\$169.51
3.	Ink for printer	\$165.15
4.	Mailing costs	\$40.00
5.	Security deposit	\$375.00
	Total	\$815.31

Analysis

Landlord's application:

Residential Tenancy Policy Guideline #1 addresses **Landlord & Tenant – Responsibility for Residential Premises**. In part, this guideline provides as follows:

The tenant is not responsible for reasonable wear and tear to the rental unit or site (the premises), or for cleaning to bring the premises to a higher standard than that set out in the *Residential Tenancy Act* or *Manufactured Home Park Tenancy Act* (the Legislation).

Reasonable wear and tear refers to natural deterioration that occurs due to aging and other natural forces, where the tenant has used the premises in a reasonable fashion. An arbitrator may determine whether or not repairs or maintenance are required due to reasonable wear and tear or due to deliberate damage or neglect by the tenant. An arbitrator may also determine whether or not the condition of premises meets reasonable health, cleanliness and sanitary standards, which are not necessarily the standards of the arbitrator, the landlord or the tenant.

Based on the above guideline, I find that the maintenance of the chimney is the responsibility of the landlord and therefore the landlord is not entitled to the cost of cleaning the chimney.

Residential Tenancy Policy Guideline #1 also states that the tenant is responsible for periodic cleaning of the carpets to maintain reasonable standards of cleanliness. The tenant will be held responsible for steam cleaning or shampooing the carpets after a tenancy of one year. Where the tenant has deliberately or carelessly stained the carpet, he or she will be held responsible for cleaning the carpet at the end of the tenancy regardless of the length of tenancy.

In this case, I find that the tenant did not deliberately or carelessly stain the carpet. The photographs filed by the tenant show that she did leave the unit in a clean condition.

However, the photographs filed by the landlord show that the carpets appeared black and needed to be steamed to restore them to their original colour. Therefore, even though the tenancy was only four months in length, I find it appropriate to award the landlord the cost of the rental of the carpet steam cleaning machine.

The landlord filed a photograph of the blinds which shows one vane slightly longer than the others. The landlord stated that the prong holding this vane is broken and therefore the blinds need to be replaced. The landlord has not yet replaced the blinds and has filed an estimate in the amount of \$149.99. Based on *Residential Tenancy Policy Guideline #1*, I find that this damage is not deliberate on the part of the tenant and is more likely than not, due to reasonable wear and tear. For all the above reasons, I find that the landlord is not entitled to the cost of replacing the blinds.

Based on the sworn testimony of both parties and the documentary evidence filed by both parties, I find that the tenant left the rental unit in a clean condition and therefore the landlord is not entitled to the cost of cleaning.

The landlord stated that the tenant's chair and sofa left marks on the wall and is claiming the cost of fixing and painting the walls. Based on *Residential Tenancy Policy Guideline #1*, the tenant is not responsible for damage that is the result of wear and tear. In this case, I find that the tenant did not cause deliberate damage to the wall nor was the damage caused by neglect on the part of the tenant. For these reasons and since the tenancy was only four months old, I find that the landlord must bear the cost of painting.

The legislation does not permit me to award any litigation related costs other than the filing fee. Therefore the landlord's claim for printer ink, postage and time to put the application together is dismissed.

Overall, the landlord has established a claim for \$72.70.

Tenant's Application:

The tenant arranged for the phone line to be fixed without informing the landlord prior to calling the telephone company. The tenant received a bill of \$65.65 for the repair. The rental unit was equipped with a phone line and it is the responsibility of the landlord to maintain the line in a usable condition. Even though the tenant did not follow the procedure of informing the landlord, I find that the end result would have been the same. Had the tenant notified the landlord of the problem, the landlord would have had to call the technician of the telephone company and accordingly the telephone company would have billed the landlord for the service. Therefore I find that the tenant has established a claim of \$65.65 towards the repair of the phone line.

The legislation does not permit me to award any litigation related costs other than the filing fee. Therefore the tenant is not entitled to lost wages, cost of printer ink and postage.

Overall the tenant has established a claim of \$65.65.

Since both parties have established a portion of their claims, each party must bear the cost of filing their own application.

I will use the offsetting provisions of section 72 of the *Act* to grant the tenant a monetary order in the amount of \$367.95 which consists of the security deposit minus the difference between the entitlements of both parties. I grant the tenant an order under section 67 of the *Residential Tenancy Act* for the balance due of \$367.95. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of **\$367.95**.

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: September 07, 2011.

Residential Tenancy Branch