



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order. The landlord participated in the hearing and the tenant was represented at the hearing by an agent.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The parties agreed that the tenancy began on October 1, 2008, at which time the tenants paid a \$750.00 security deposit, and ended on October 31, 2010. They further agreed that the rent was originally set at \$1,500.00 per month and was raised to \$1,600.00 per month on June 1, 2010. The parties did not complete a condition inspection of the unit either at the beginning or at the end of the tenancy.

The landlord seeks to recover \$1,600.00 in unpaid rent for the month of October 2012. The tenant's agent acknowledged that rent was not paid in that month.

The landlord testified that the tenant had removed the carpet on the downstairs floor and left a bare cement floor at the end of the tenancy. The tenant's agent acknowledged that the carpet had been removed and testified that when the tenant attempted to clean the carpet, there was some type of reaction, leaving the carpet with spotty stains. The landlord testified that the carpet was at least 10 years old. She seeks to recover \$500.00 as the cost of installing new flooring and provided an invoice showing that she spent \$526.65 to purchase new flooring.

The landlord seeks to recover \$1,000.00 as the cost of installing new flooring in the kitchen. She testified that the tenants had burned an area of the linoleum and had cut an area from under the refrigerator in an attempt to repair the burned area. The landlord testified that a heater in the kitchen had been turned off because it was too hot

and had previously burned the linoleum and theorized that it had been turned on, causing a burn. She acknowledged that she had not told the tenants not to turn on the heater and estimated that the flooring was 10 – 15 years old. The tenant's agent testified that the tenant used a woodstove for heat and theorized that the thermostat in the residence automatically started the heater when the house became too cold. He acknowledged that he attempted to patch the area with linoleum taken from under the refrigerator.

The landlord testified that she had to replace 2 doors in the rental unit as one had a large hole in it at the end of the tenancy and the other had been cut in half. The tenant's agent testified that the door which had been cut in half was found outside the rental unit during the tenancy, having been damaged and de-laminated by the elements. He stated that he brought it into the unit and cut it in half for the tenant's use as a barrier for her dog. The landlord insisted that the door had always been installed in the house. The tenant's agent did not comment on the allegation that another door had a hole in it. The landlord provided an estimate showing that it would cost her \$241.90 to replace both doors and seeks to recover \$200.00 of that cost.

The landlord also seeks to recover the \$50.00 filing fee paid to bring her application.

### Analysis

I find that the tenant was obligated to pay rent in the month of October 2010 and failed to do so and I find that the landlord is entitled to recover those arrears. However, I find that the rent increase which took effect on June 1, 2010 raised the rent by an illegal amount. In 2010 the permitted rent increase under the Residential Tenancy Regulation was 3.2%, which would have raised the tenant's rent by \$48.00 per month. The landlord raised the rent by almost 7%, collecting \$52.00 too much in each of the months of June – September inclusive. I find that the tenant should have paid \$1,548.00 in rent in the month of October and should be credited for the \$208.00 overpayment resulting from the illegal rent increase, leaving a balance of \$1,340.00 payable for October. I award the landlord \$1,340.00.

I find that the tenant should not have removed the carpet in the lower floor of the unit and is liable for the value of the carpet. Residential Tenancy Policy Guideline #40 identifies the useful life of carpet as 10 years. I find that the carpet had long since outlived its useful life and therefore any damage award must be nominal. I award the landlord \$20.00 for the loss suffered as a result of the tenant's breach of the Act in removing the carpet.

I dismiss the claim for the cost of replacing linoleum in the kitchen. The landlord knew that the heater could burn the linoleum and by her own admission did not tell the tenant of this risk. The tenant cannot therefore be held responsible for that damage. Although the tenant caused further damaged the linoleum by attempting to repair the damage, I find that the linoleum would have needed to be replaced in any event and therefore decline to make any award with respect to this flooring.

I accept that the tenant caused damage to both doors in the rental unit. However, in the absence of a condition inspection report showing the condition of the doors at the beginning of the tenancy, I accept the evidence of the tenant's agent and find that one of the doors had been severely weathered after having been left outside. I find it more likely than not that the doors were at or nearing the end of their useful life and I find it appropriate to award nominal damages for the loss of value of the doors. I award the landlord \$20.00 which represents an award of \$10.00 per door.

As the landlord has been somewhat successful in her claim, I find that she is entitled to recover the filing fee paid to bring her application and I award her \$50.00.

### Conclusion

The landlord is awarded \$1,430.00 which represents \$1,340.00 in arrears, \$20.00 for the carpet on the lower floor, \$20.00 for doors and the \$50.00 filing fee. The landlord has a \$750.00 security deposit which I find should be applied to the award and I grant the landlord a monetary order for the balance of \$680.00. This order may be filed in the Small Claims Division of the Provincial Court 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: April 03, 2012

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Residential Tenancy Branch