

## **DECISION**

Dispute Codes      MNDC, MND, MNR, MNSD, FF

### Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

The Tenant applied on May 3, 2012 for:

1. A Monetary Order for compensation or loss - Section 67; and
2. An Order for the return of the security deposit.

The Landlord applied on June 12, 2012 for:

1. A Monetary Order for unpaid rent – Section 67;
2. A Monetary Order for compensation – Section 67;
3. A Monetary Order for damage to the unit – Section 67;
4. An Order to retain all or part of the security deposit – Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Is the Landlord entitled to the monetary amounts claimed?

### Background and Evidence

The tenancy started on April 15, 2012 and ended on April 23, 2012. The Tenants did not occupy the unit. Rent of \$725.00 was payable monthly and \$150.00 was agreed upon for April rent. At the onset of the tenancy, the Landlord collected \$362.50 as a security deposit. The Parties carried out a move-in inspection and a form was completed however a copy was not provided to the Tenants.

The Tenants state that upon taking possession of the unit on April 15, 2012, the unit was unclean and the Landlord agreed to clean the unit. The Tenants did not move into the unit. On April 17, 2012, the Tenants returned to the unit but the unit was still not clean. The Tenants submit that they hired a carpet company to steam clean the rugs and provided an invoice dated April 19, 2012 for \$172.00 from the company.

The Tenants state that they found devices containing poison, a mouse dropping in a cupboard and that they noticed a strong odor coming from the cupboards. The Tenant states that the dropping looked like a kernel of brown rice but that the Tenant knew it to be a mouse dropping based on the Tenant's knowledge gained from a high school biology class. The Tenants provided a letter from a witness to droppings in the unit and describes the droppings as the size and color of brownish-black rice. The Tenants state that they became concerned about a rodent infestation and contacted the Landlord who told them that there was no infestation and that the boxes were just there for rodent control.

On April 23, 2012, the Tenants sent a registered letter to the Landlord providing an immediate end to the tenancy. The Tenants also sent a cheque for \$170.50 for the amount of May 2012 rent payable following deduction of their security deposit, cost of carpet cleaning and cost of a laundry card. The Tenants claim a return of the rental monies and security deposit paid to the Landlord as they claim the unit was not inhabitable due to the presence of mice and the poison. The Tenants also claim recovery of the carpet cleaning and laundry card costs.

The Landlord states that the carpets were steam cleaned on April 12, 2012 and provided an invoice for this cleaning. The Landlord also provided a letter from the carpet cleaner indicating that no unusual or bad odors were recalled to be present at the time of the cleaning.

The Landlord states that the Tenants were not expected to be moved into the unit until May 1, 2012 and that although the Landlord cleaned the unit at the end of the previous

tenancy, the Landlord spent several extra hours on April 17 and 18, 2012 completing the cleaning required by the Tenants and with special supplies as the one Tenant had indicated allergies. The Landlord states that the Tenants were also offered new paint on the walls but the Tenants refused.

The Landlord states that in 2011 due to construction at the property, mice were found at the property. The Landlord states that a pest control company was hired in June 2011 and that the company makes monthly inspections of the property. The Landlord states that the boxes identified by the Tenants are for monitoring purposes only and that the poison is bait that is measured for loss. The Landlord supplied a copy of the service contract with the pest control company and a letter from this company indicating that no mice have been found in the unit.

The Landlord does not dispute the Tenants' claim for return of \$20.00 for the laundry card. The Landlord claims unpaid May rent.

### Analysis

Section 32 of the Act provides that a landlord must provide residential property in a state of decoration and repair that

- (a) complies with the health, safety and housing standards required by law, and
- (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

Section 7 of the Act provides that where a tenant or landlord does not comply with the Act, regulation or tenancy agreement, the non-complying tenant or landlord must compensate the other for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party and that costs for the damage or loss have been incurred or established.

Based on the undisputed claim for the cost of the laundry card, I find that the Tenants have substantiated an entitlement to **\$20.00**. Given the Landlord's evidence of carpet cleaning, I find that the Landlord provided a reasonably clean carpet to the Tenants and I dismiss the Tenants' claim for costs of carpet cleaning. Based on the undisputed evidence of the Landlord that the unit was further cleaned, given the evidence of the Landlord and the pest company of no rodent infestation, and considering that the Tenants supplied no evidence in relation to health safety or housing standards being out of compliance, I find that the unit was suitable for occupation and was in compliance with the Act. Accordingly, I dismiss the remainder of the Tenants' claim for compensation.

Section 16 of the Act provides that the rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit. Based on the undisputed evidence that the Tenant paid \$170.50 towards May 2012 rent and considering that the Tenants did not provide a full month's notice to end the tenancy, I find that the Landlord is entitled to the remaining rental amount of **\$554.50** in unpaid rent for this month. Given the lack of a move-out report or photos in relation to the claim for \$20.00 for cleaning by the Landlord, I find that the Landlord has not substantiated that the Tenants' left the unit unclean and I dismiss this part of the claim. I decline to make an award for recovery of the filing fee.

Setting the Tenants' security deposit of **\$362.50** and zero interest plus the Tenants' **\$20.00** entitlement off the Landlord's entitlement leaves **\$172.00** owing by the Tenants to the Landlord.

### Conclusion

**I order** that the Landlord retain the **deposit** and interest of \$362.50 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$172.00**. If necessary, this order may be filed in the Small Claims 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: July 3, 2012.

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Residential Tenancy Branch