

## **DECISION**

Dispute Codes      MND, MNDC, MNSD, FF

### **Introduction**

This is an application filed by the Landlord for a monetary order for damage to the unit, site or property, for money owed or compensation for damage or loss, to keep all or part of the security deposit and recovery of the filing fee.

Both parties have attended the hearing by conference call and have given testimony. As both parties have attended and have confirmed receipt of the notice of hearing and the Landlord's submitted documentary evidence, I am satisfied that both parties have been properly served.

The Tenant seeks an adjournment because he states that he is currently in Vancouver undergoing treatment at a pain clinic. The Tenant's submitted statement, "Our Landlord who we are disputing purposely sent our information package the wrong address, and we did not receive until early September. Less than a week after we finally received this package I flew to Vancouver to be in a pain therapy clinic. I have not been able to properly prepare witness statements, photographic evidence and my statement." The Landlord objects to the adjournment request. The Tenant stated in his direct testimony that he has not yet gathered any statements from any prospective witnesses as he does not have any telephone numbers or addresses, one of which is his mother-in-law. The Tenant states that his health issues have prevented his preparation. I find that the Tenant has failed to satisfy me in his adjournment request. The Tenant has not attempted to prepare for the hearing by requesting any witness statements in advance or provided any details of how his health issues would prevent him from accomplishing this. The Tenant stated that his wife has frequently visited him in Vancouver since the application was filed, but that no efforts were made to gather evidence. The hearing shall proceed as there would be a prejudice to the Landlord for the delay. The Tenant has not filed any documentary evidence.

Section 72 of the Act addresses **Director's orders: fees and monetary order**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, the Landlord's claim for recovery of litigation costs (postage) is dismissed.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

Background, Evidence and Analysis

This Tenancy began on August 15, 2011 on a fixed term tenancy ending on August 15, 2012 and then thereafter on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The Tenancy ended on August 1, 2012.

The monthly rent was \$1,250.00 payable on the 1<sup>st</sup> of each month and a security deposit of \$625.00 was paid on July 18, 2011. A condition inspection report for the move-in was completed on August 15, 2011 and the move-out August 1, 2012 by both parties. The Tenant's forwarding address was provided on condition inspection report on the move-out date of August 1, 2012.

The Landlord seeks a monetary order for \$1,229.20.

This consists of \$120.00 for general housing cleaning (by Priced Right Cleaning Services Receipt). The Tenant disputes this claim. The Landlord relies on the receipt issued by Priced Right Cleaning Services, the condition inspection report for the move-in and the move-out as well as photographs. The Tenant claims that the Landlord is falsifying the receipt details as he states that the cleaning person, A.S. is a friend of hers. The Landlord disputes this and refers to a letter from the cleaner, A.S. dated August 2, 2012 which states, "From the moment I entered the home, the smell of cat urine and feces overwhelmed me. The wall, ceilings, floors were completely coated in cat hair and even the inside of the fridge had cat hair. The water from washing the home had turned almost black from the dust and cat hair everywhere and had difficulty removing all of the pet hair as it was stuck to everything. I used difference cleaning solutions, such as pine sol, bleach, eucalyptus and vinegar when washing to try to remove the odour. The carpet on the stairs was in terrible condition due to the amount of animal hair and dander and most of all, the smell had penetrated it. In my professional opinion, I think Krystyna will have to replace the carpet on the stairs. After doing all I could, Krystyna stayed to further to continue washing and attempting to remove the odour from the basement and the rest of the house." The Tenant has provided no supporting evidence to support the claim of fraud.

The Landlord also seeks \$25.00 for 1 hour of the Landlord's personal time to steam clean the carpets, \$150.00 for the Landlord's personal time (10 hours) for odor

removal/cleaning of the rental, \$75.08 for painting the laundry/utility room floor (materials only, receipt from Kamloops Paint and Wallpaper) because the floor was saturated with urine and feces. The Landlord states that multiple cleanings would not remove the smell and that the floor had to be painted to achieve this.

The Landlord also seeks \$3.00 for vinegar(receipt from Superstore), \$13.66 for more vinegar and lightbulbs (receipt from Superstore), \$6.00 for lawn stakes and tape and \$17.00 (receipt from Home Depot) for patch master. The Tenant has stated that he is not disputing the materials bought for the lawn maintenance, lightbulb replacement and the cleaning materials. As such, the Landlord is successful in these portions of the claim.

The Landlord is also seeking \$45.00 (@ \$15.00 per hour for 3 hours) of labour to repair the lawn as noted by the Strata by-law fines of \$800.00 which the Landlord has paid to the Strata for the Tenant's infractions. The Tenant disputes the \$800.00 Strata Fines by stating that they are currently under review by the Strata. The Tenant also disputes that the Landlord verbally agreed to waive the labour costs for this expense. The Landlord disputes this and has provided the letters from the Strata with the imposed fines and their payments by the Landlord. The Landlord also states that this labour cost, if a professional were called that they would be responsible for atleast a \$1,000.00 bill. The Landlord states that they chose to do the work themselves to save costs.

I find on a balance of probabilities based upon documentary evidence and the testimony of both parties that I prefer the evidence of the Landlord over that of the Tenant, in conjunction with the condition inspection reports that the Landlord has established a claim for damages. The Landlord has established a monetary claim for \$120.00 in house cleaning, \$25.00 for personal cleaning labour, \$150.00 for odor removal/cleaning of the rental, \$75.08 for painting materials for the laundry room floor, \$45.00 for the lawn repair labour and the \$800.00 in Strata by-law infractions for a total of \$1,215.08.

The Tenant has conceded the following monetary claims by the Landlord in his direct testimony, \$3.00 for vinegar, \$13.66 for vinegar and lightbulbs, \$6.00 for lawn stakes and tape for a total of \$22.66.

The Landlord has established a total monetary claim for \$1,237.74. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$625.00 security deposit in partial satisfaction of the claim and I grant a monetary order under section 67 for the balance due of \$612.74. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted a monetary order for \$612.74.  
The Landlord may retain the security deposit.

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: October 24, 2012.

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Residential Tenancy Branch