



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for a monetary order for compensation under the Act and the tenancy agreement, for damage to and cleaning of the rental unit, for unpaid utilities, and to recover the filing fee for the Application.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure, however, I refer to only the relevant facts and issues in this decision.

Preliminary Matter

The Tenant failed to provide documentary evidence prior to the hearing. The Tenant stated during the hearing he had evidence to provide but he did not send it in. It was explained to the Tenant that the rules of procedure require evidence to be provided to the other party and the Branch at least five business days prior to the hearing.

Issue(s) to be Decided

Are the Landlords entitled to monetary compensation from the Tenant?

Background and Evidence

This tenancy began on November 5, 2009, with the parties entering into a written tenancy agreement. The rent was set at \$1,300.00 per month and the Tenant paid a security deposit of \$650.00.

The parties had been to one prior dispute resolution hearing in March of 2012, which dealt with possession of the rental unit and the security deposit.

Condition inspection reports were performed at the beginning and end of the tenancy, in accordance with the Act.

The Tenant, his spouse and their children vacated the rental unit on March 12, 2012.

The Landlords claim that the Tenant did not clean or make repairs to the rental unit prior to vacating. The Landlords claim that the entire rental unit had to be cleaned and disinfected due to the presence of human feces and urine in the carpets, and in other areas in the rental unit.

The Landlords testified and submitted evidence that they found human feces and urine, along with rotting food, socks, toys, a soiled diaper and underpants in the heat vent registers. The vents all had to be cleaned.

The Landlords cleaned the carpets three times using detergents and disinfectants, however, they were unable to remove the odour of human waste. The Landlords testified that the carpets were three to four years old at the start of the tenancy, and they replaced these with laminate floors. The Landlords testified that after the carpeting was removed they found mold and mildew, along with the pungent odour of human waste. They stated that the sub floors had to be disinfected and then painted in order to remove the odour.

The Landlords had a statement from a pest control company that the reason the rental unit had an infestation of weasels was due to the poor sanitary condition of the rental unit. The pest control company wrote on two different receipts:

“... found food debris in furnace duct... food debris in corners, under stove, fecal material on floor in bedroom...”

“... I noticed sanitation was an issue everywhere and noticed the house had a pungent odour. I noticed place hasn't been cleaned had various food products behind furniture rotting... reason there are pest problems is cause of sanitation problems.”

[Reproduced as written.]

The Landlords testified and submitted that they had to replace the linoleum in the kitchen and the bathroom due to cigarette burns and cuts, and damage from the toilet backing up in the bathroom. The Landlords testified that the toilet backed up in the

bathroom because children's toys had plugged it. The backups also caused the wood in the bathroom vanity to swell up, which caused damage to the drawers. The sink in the vanity had a large piece of porcelain missing.

The Landlords claim the entire rental unit had to be repainted due to cigarette smoke and stains.

The Landlords testified that they had to replace three closet bi-fold door assemblies which had been damaged.

The Landlords also claim for cleaning behind the fridge and stove, where they testified they found rotting food, garbage and dead insects.

The Landlords also claim for cleaning and removing a large amount of garbage and debris left in the yard after the Tenant vacated.

The Landlords claim that due to the condition the rental unit was left in they lost four months of rent, as they had to make repairs and contractors were hard to find.

In evidence the Landlords supplied receipts and invoices, copies of the tenancy agreement, condition inspection reports, monetary order worksheets, and written statements.

The Landlords claim as follows:

a.	Loss of rent for March, April, May and June 2012	5,200.00
c.	Repair or replace closet doors, vanity, sink, cleaning services for vents, rental unit etc.	2,672.54
d.	Remove and replace carpets, clean & paint subfloor	2,907.25
e.	Install linoleum and laminate floors	2,738.48
f.	Filing fee	100.00
	Total claimed	\$15,250.30

In reply to the Landlords' claims, the Tenant testified that he thought their claims were "bogus".

The Tenant testified that he made all the necessary repairs to the rental unit before he left. He agreed the unit may have needed some additional cleaning and that is why he let the security deposit go during the first hearing.

The Tenant disagreed that he had damaged the linoleum and he alleges a piece of the linoleum was missing at the start of the tenancy.

The Tenant testified he found it hard to believe there were any feces or urine stains.

The Tenant testified he paid the utility bill out of his own funds, however, he had no evidence to prove that.

The Tenant also disputed that it would take four months to make the repairs to the rental unit. He testified that even with a shortage of contractors in the area of the rental unit it should not have taken four months to repair the rental unit.

The Tenant also alleges there were no baseboards missing when he vacated the rental unit.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the Tenant has breached sections 32 and 37 of the Act.

I find the Tenant failed to maintain reasonable health and safety standards in the rental unit, which is a breach of section 32 of the Act.

More importantly, I find the Tenant did not leave the rental unit reasonably clean and undamaged, except for reasonable wear and tear, at the end of the tenancy.

I found the Tenant's bare denial of claims was insufficient to rebut the preponderance of the Landlords' evidence against the Tenant. For example, in reviewing the condition inspection report at the outset of the tenancy, the Tenant agreed the entire unit was in good condition, and had been cleaned, washed and freshly painted. There is no mention of a piece of linoleum missing in the incoming report. Furthermore, at the end of the tenancy the Tenant agreed in writing, on the outgoing report, that much work was required and that many areas of the rental unit were "filthy" as set out on the report. The Tenant also agreed there were damages to the rental unit when he signed the report.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations

or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the breaches of the Act by the Tenant have caused the Landlords to suffer losses as follows:

I find that due to the condition the rental unit was left in, the Landlords had to take at least three months to clean and repair the rental unit. I allow them three months of rent for this in the amount of **\$3,900.00**.

I find the Landlords had to undertake extensive cleaning and disinfecting at the rental unit, and had to make repairs and paint walls and subfloors. I find the Landlords had to replace closet doors and the vanity and sink. The Landlords also had to clean or have cleaning services for vents and other parts of the rental unit. I allow them their claims of **\$1,632.03** and **\$2,672.54** for these.

As for the claims regarding floor coverings, I find that the Tenant's breaches of the Act caused the Landlords to have to repair and replace these. However, the Landlords testified that the flooring was four years old. Under the policy guideline, the useful life for carpets is 10 years. Therefore, I allow the Landlords the depreciated value of the floor coverings, calculated as $\$5,645.73 - 40\% = \mathbf{\$3,387.44}$

Therefore, I find that the Landlords have established a total monetary claim of **\$11,692.01** comprised of the above described amounts and the \$100.00 fee paid for this application. I grant the Landlords a monetary order under section 67 for the balance due of **\$11,692.01**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Tenant breached the Act by failing to leave it reasonably clean and undamaged. The Landlords suffered losses due to this, including a loss of rent for three months during repairs. The Landlords are granted a monetary order in the amount of \$11,692.01, which must be served on the Tenant and may be enforced in Provincial Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 05, 2012.

Residential Tenancy Branch