



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD

Introduction

This hearing dealt with an application by the landlords for a monetary order and an order authorizing them to retain the security deposit. Both parties participated in the conference call hearing.

Issue to be Decided

Are the landlords entitled to a monetary order as claimed?

Background, Evidence and Analysis

The parties agreed that the tenancy began in May 2009 and ended on May 1, 2012. They further agreed that rent was set at \$1,400.00 per month and that the tenant paid a security deposit of \$850.00.

The landlords made a number of claims, which I have set out below together with my analysis. The landlords provided a number of invoices produced by their property manager, identified by 7 digit numbers. I have referred to those invoices by the last 2 digits of each invoice number.

1. **Unpaid rent.** The landlords seek \$1,400.00 in unpaid rent for each of the months of October 2011 and May 2012. The tenant agreed that she owed the landlords rent for October 2011. The landlords testified that on May 1, the tenant gave them less than one day's notice that she was vacating the rental unit. The tenant acknowledged that she gave the landlords short notice and further acknowledged that she did not pay rent in May. The tenant testified that the landlords had advised that they were appointing an agent to deal with the tenancy and that she vacated the rental unit because she did not want to deal with a property manager.

The landlords have a right to appoint an agent to deal with the tenancy and there is no provision under the Act whereby the tenant may end a tenancy because she would prefer not to deal with an agent. I find that the tenant was responsible to pay

rent for the months of October 2011 and May 2012 and I find that because she failed to do so, the landlords are entitled to recover \$2,800.00 in unpaid rent. I award the landlords \$2,800.00.

2. **Junk removal.** The landlords seek to recover \$1,272.32 as the cost of removing junk from the property. The landlords provided invoices showing that they spent the following amounts on junk removal: \$580.16 on May 2, \$366.24 on May 4, and \$325.92 on May 18. The landlords entered into evidence photographs of the rental unit showing that the tenant had left behind furniture, appliances and other items, which were included in the items removed on May 2. The tenant testified that she had given her notice to be effective on May 1 at noon and that she had intended to return to the property on May 2 to retrieve some of her belongings, but had been told by the landlords that if she returned, she would be charged with trespassing. Having viewed the photographs, it appears that the items left behind in the rental unit had little or no value. The tenant clearly communicated to the landlords that the tenancy would end at noon on May 1 and I find that any belongings left after that date were rightly considered to have been abandoned by the landlords. I find that the landlords are entitled to recover the \$580.16 paid to remove the tenant's belongings. The remaining invoices identify the removal of other items such as the stove, carpet, bathtub and renovation materials. As the tenant was only held partly liable for the cost of renovations, I find it appropriate that she bear just one half of the costs of removing items that were replaced. I award the landlord \$926.24 which represents the \$580.16 to remove the tenant's belongings, \$183.12 for the May 4 invoice and \$162.96 for the May 18 invoice.
3. **Carpet replacement.** The landlords seek to recover one half of the cost of replacing the carpet in the rental unit. The landlords testified that at the end of the tenancy, there were significant stains in the carpet, including stains from pet urine and feces, and that the carpet in one room was missing entirely. The tenant testified that the landlords had told her that they would be replacing the carpet anyway, which led her to believe that it would not be a problem to remove the carpet from one room. The landlords were unsure of how old the carpet was and testified that while they were aware that the carpet would need to be replaced within a few years, they did not give the tenant permission to remove the carpet. I find that the tenant had an obligation to leave the carpet intact and in reasonably good and clean condition and that she failed to meet that obligation. Given the age of the carpet, I find it appropriate that the landlords recover 1/3 of the \$4,112.12 cost of the carpet. I award the landlords \$1,370.71.

4. **Repainting costs.** The landlords seek to recover costs associated with repainting the rental unit. The landlords testified that the tenant repainted the unit without their permission and did not restore the walls to their original colour at the end of the tenancy. They further testified that the tenant painted over items installed on the walls such as switch plate covers and fans, requiring the replacement of those items.

The tenant testified that the landlords were aware that she was repainting and that she painted 3 times in total. She maintained that the landlord had not indicated that it was a problem during the tenancy.

The landlords submitted an invoice for \$403.99 for paint supplies and seek to recover costs as expressed in the property manager's invoices. Invoice 15 indicated that supplies including paint were included in the invoice, but no specific dollar amount is assigned to paint. Invoice 17 presented a charge of \$1,500.00 for labour, invoice 18 presented a total of \$125.98 for paint, invoice 26 presented a charge of \$49.95 for light switch covers and lights, invoice 27 presented a \$35.48 charge for paint used above the bathtub and countertop, and invoice 29 presented a \$12.49 charge for what are described as "electric covers/light cover globe". No receipt was entered into evidence to support this invoiced claim.

Unless the tenant can prove that she had the express permission of the landlords to repaint the unit, she is responsible to return the walls to their original colours. I find that the tenant has failed to prove that the landlords gave her permission to repaint and I find that she must be held liable for part of the cost of repainting.

Residential Tenancy Policy Guideline #40 indicates the useful life of building elements and identifies the useful life of interior paint as 4 years. I find that because the tenant occupied the rental unit for 3 years, the useful life of the interior paint would have expired within one year in any event, requiring the landlords to repaint at that time. I find that the tenant should be held responsible for 25% of the cost of repainting as I find that she deprived the landlords of 1 year of the useful life of the paint. The total claimed for paint and labour is \$2,065.45. I find that the landlords are entitled to recover 25% of that sum and I award them \$516.36.

I find that the landlords would not have had to replace the light switch covers and lights had the tenant not painted over them. I find that the landlords are entitled to recover the entire cost of replacing those items. Because a store receipt was not entered into evidence to support the \$12.49 claim on invoice 29, I dismiss that claim. I award the landlords the \$49.95 shown on invoice 18.

In total, the landlords have been awarded \$566.31 for costs associated with repainting.

5. **Bathtub and bathtub enclosure replacement.** The landlords seek to recover \$908.32 in labour and \$547.68 as the cost of supplies to replace the bathtub and tub enclosure as well as a further \$20.00 which is half the cost of the amount invoiced on invoice 29 to silicone the kitchen and bathroom fixtures. The landlords testified that the bathtub and surrounding tiles were in good condition at the beginning of the tenancy, but were damaged at the end of the tenancy. They provided photographs showing that the enamel in the bathtub had been severely worn away, particularly around the drain, and also showing holes in the tiles. The tenant claimed that the damage was there at the beginning of the tenancy as the condition inspection report contained a notation, "enamel chipped (upstairs bath)". The landlords testified that any chip at the beginning of the tenancy was minor.

I accept that the bathtub had a chip in the enamel at the beginning of the tenancy, but I find it likely that if it had the same damage evident at the end of the tenancy, the condition inspection report would have described the damage using a word other than "chip", which implies that the damage is in just a small area. I find it more likely than not that the tenant caused the damage to the bathtub and the tiles.

As the bathtub and tiles were not new at the beginning of the tenancy and as the landlords were unsure of the age, I find it appropriate to award the landlords 1/3 of the cost of replacing the bathtub and installing an enclosure in order to reflect the age and diminished value of the items. The landlords claimed a total of \$1,476.00 and I award them \$492.00.

6. **Cabinet replacement costs.** The landlords seek to recover the cost of replacing the kitchen cabinets. The landlords testified that the tenant painted the cabinets, which they estimated to be approximately 5 years old. They stated that because the cabinet faces had a decorative router groove and it would take considerable time to sand the cabinets to remove paint, they made the choice to replace them. The landlords also replaced the cabinet in the bathroom, for which they do not claim against the tenant. The landlords seek to recover \$430.00 which is half of a \$960.00 charge in which a workman detailed his hours to replace cabinets in both rooms. They also seek to recover the \$1,712.32 cost of supplies as noted on invoice 19, \$322.35 as presented on invoice 25 for cabinet delivery, hardware, paint and carpenter supplies as well as \$280.00 presented on invoice 26 for kitchen material and an additional day of work for the carpenter. The landlords also claim \$80.00 for what was identified on invoice 27 as "carpenters left over receipts."

I find that the tenant did not have permission to paint the cabinets and I find that by painting them, she significantly changed their appearance thereby devaluing them. I find that the landlords acted reasonably in replacing the cabinets and as Residential Tenancy Policy Guideline #40 identifies the useful life of cabinets as 25 years, I find that the tenant deprived the landlords of 20 years, or 4/5 of their useful life. I find that the landlords are entitled to recover 4/5 of their proven costs.

I accept the \$480.00 initial workman charge, the \$1,712.32 cost of supplies shown on the receipt accompanying invoice 19, the \$122.35 for paint shown on invoice 25 and the \$280.00 claim for kitchen materials and additional carpenter work shown on invoice 26, which totals 2,594.67.

I dismiss the claim for \$75.00 for cabinet delivery, \$25.00 for hardware and \$100.00 for carpenter supplies shown on invoice 25 as there are no receipts to corroborate these expenses. I also dismiss the claim for the \$80 shown on invoice 27 for "carpenters left over receipts" as the corroborating receipts could not be identified from the evidence submitted.

In total, I award the landlords \$2,075.74 which represents 4/5 of the \$2,594.67 cost of replacing cabinets.

7. **Interior cleaning and exterior power washing and lawn care.** The landlords seek to recover a total of \$4,521.25 as the cost of cleaning the interior unit, power washing the deck and driveway, and caring for the lawn. The landlords testified that the tenant did not adequately clean the rental unit and that as a result, their property manager and 2 helpers spent 3 full days cleaning the unit. Invoice 15 presented a total of \$1,650.00 for cleaning charges, of which the landlords seek to recover \$1,375.00. The landlords' photographs show that cleaning was required, but I am not persuaded on the evidence that it required 3 people to work full time for 3 days. The tenant was obligated to leave the unit in reasonably clean condition, not to leave it spotless. I find that an award of \$600.00 will adequately compensate the landlords and I award them that sum.

Invoice 16 presented a total of \$975.00 of which the landlords seek to recover \$725.00 for the cost of power washing and a further \$475.00 for additional cleaning, ordering of flooring and purchase of paint supplies. The landlords testified that power washing was required because the deck, sidewalks and windows were dirty. The tenant testified that she washed the deck, sidewalks and windows multiple times during the tenancy. The landlords' photographs show that the sidewalk behind the

rental unit were soiled, but do not show soiling on the driveway or deck. The landlords are responsible for cleaning the exterior of the house and the windows. I find that the landlords should recover a portion of the power washing to compensate them for having to clean the sidewalk at the back of the house and I award them \$100.00. I dismiss the claim for the additional monies for cleaning and securing of supplies as I find that the \$600.00 awarded for cleaning in the previous paragraph adequately compensated the landlords. I find that the tenant should not be held responsible for the work involved with securing supplies as these are costs associated with doing business as a landlord. Accordingly I dismiss the claim for an additional \$475.00.

Invoice 20 presented a total of \$2,075.00 of which the landlords seek to recover \$1,556.25 for organizing and supervising trades and cleaning. With invoice 20, the property manager included a list of the work performed. Most of the work identified on invoice 20 was the supervision of trades and time spent to research and purchase items. 6 lines on the list of work performed addressed actual labour: applying ammonia to lino and cement surfaces, painting floors, using a weed eater on the lawn, painting drywall installed under the bathroom cabinet, re-hanging doors and scrubbing laminate floors and stairs. The property manager did not identify the time for each of these tasks. I find the cost of supervision of trades and securing of cleaning and repair supplies are costs associated with doing business as a landlord. As costs for the actual labour was not broken down, it is necessary to assign a reasonable value to the labour performed. I find that the work described could have been performed in 10 hours and applying the property manager's rate of \$25.00 per hour, I award the landlords \$250.00.

Invoice 25 presented a charge of \$60.00 for yard work which the landlords seek to recover. The landlords' photographs show that the yard required minor maintenance and I find the charge to be reasonable. I award the landlord \$60.00.

Invoice 27 presented a charge of \$500.00 for 20 hours of the property manager's work from May 22 - 26 of which the landlords seek to recover \$250.00. The property manager included a list of the work performed. Much of the work described, such as supervising trades, securing supplies and contacting potential renters must be characterized as costs associated with doing business as a landlord and are not recoverable. The list includes just a few tasks, vacuuming newly carpeted floors, cleaning up after trades people, cleaning bathroom fixtures and attaching electrical covers, that I consider to be recoverable charges. I find that these tasks could have been completed within 1 hour and I award the landlords \$25.00.

Invoice 28 presented a charge of \$30.00 for yard work as well as a \$75.00 charge for “show/tub/toilets/emails/referrance [sic] checks”. The landlords seek to recover the \$30.00 charge and \$50.00 of the second charge. I find insufficient evidence to show that a significant amount of yard work was required and I therefore dismiss the claim to recover the \$30.00 charge. As the landlord has already been compensated for cleaning the bathroom fixtures under invoice 27, I dismiss the claim for recovery of the \$50.00 charge.

In total, the landlords have been awarded \$1,035.00 for cleaning, power washing and lawn care.

8. **Lock replacement.** The landlords seek to recover \$135.00 as the cost of replacing locks at the end of the tenancy. The landlords testified that the tenant did not return the keys to the rental unit, so they had to replace the locks. The tenant claimed that she left the keys on the kitchen counter. The landlords testified that no keys were found in the rental unit. Invoice 28 presented a charge of \$135.00 for the price of hiring a locksmith.

The tenant was responsible for returning the keys to the landlords. In the normal course of a tenancy, the tenant would meet with the landlords to return keys and inspect the unit at the end of the tenancy. The tenant deprived the landlords of the opportunity for their agent to inspect the unit with her by departing abruptly. I am not satisfied on the evidence that the tenant left the keys in the rental unit and I find that the landlords should recover the cost of installing new locks. I award the landlords \$135.00.

9. **Plumbing.** The landlords testified that they had to engage a plumber to reconnect fixtures in the kitchen and bathroom after the new cabinets had been installed. They provided invoice 29 on which there is a \$480 charge, of which the landlords claim one half (\$240.00) as the cost of hooking up the fixtures in the kitchen. The landlords also claim \$70.00 of a \$147.00 charge for plumbing supplies as shown on invoice 29.

As I have found that the kitchen cabinets had to be replaced, I find that the tenant should also be liable for the costs of plumbing work. I award the landlords \$310.00.

10. **Misc. expenses.** The landlords seek to recover \$85.25 as the cost of replacing weather stripping which they claim was in place around the doors at the beginning of the tenancy but was missing at the end of the tenancy. Invoice 40 presents a charge of \$50.00 for labour and \$35.25 for supplies to replace the weather stripping.

The tenant claimed that there was no weather stripping around the doors at the outset of the tenancy.

The landlords also seek to recover the \$28.78 cost of replace a shower curtain and curtain hooks as reflected on invoice 17 as they claim that the shower curtain was missing at the end of the tenancy.

The landlords also seek to recover \$100.00 of the \$287.60 in miscellaneous charges shown on invoice 29, which reflects the cost of replacing heating vent covers, mirrors, curtains and a curtain rod. The landlords testified that the heating vent covers had been duct taped to the floor and that removing the tape damaged the covers. The tenant testified that the covers were taped in place at the outset of the tenancy. The landlords testified that the curtains and a mirror were missing at the end of the tenancy. The tenant did not comment on these issues.

The landlords bear the burden of proving their claim. As weather stripping was not noted in the condition inspection report and as there do not appear to be photographs pre-dating the tenancy which show that weather stripping was in place at that time, I find that the landlords have not proven that weather stripping was present at the outset of the tenancy and I dismiss the claim.

I also dismiss the claim for the cost of a shower curtain and curtain hooks as the landlords' photographs do not show that a curtain was in place at the beginning of the tenancy and the item is not detailed on the condition inspection report.

I accept that there were curtains and a mirror in place at the beginning of the tenancy and further find it more likely than not that the heating vent covers were not duct taped to the floor as I find it likely that this would have been noted on the condition inspection report. I find that the landlords are entitled to recover the \$100.00 claimed and I award them that sum.

11. **Lawnmower.** The landlords testified that a lawnmower was provided for the tenant to use and although it was fairly new at the beginning of the tenancy, it was inoperable at the end of the tenancy. The tenant had no comment on the issue of the lawnmower. The landlords claim \$150.00 as the cost of a used lawnmower to replace the missing mower. I dismiss the claim for the lawnmower as the landlords did not submit vendor receipts to corroborate the amount referenced on invoice 40.

12. **Skip tracer.** The landlords seek to recover \$65.00 as the cost of hiring a skip tracer to locate the tenant. Under the Act, the only litigation-related expense I am empowered to award is the cost of the filing fee. Accordingly, I dismiss this claim.

13. **Filing fee.** The landlords seek to recover the \$100.00 filing fee paid to bring their application. As the landlords have been substantially successful in their claim, I find that they should recover the filing fee and I award them \$100.00.

Conclusion

In summary, the landlords have been successful as follows:

Unpaid rent	\$2,800.00
Carpet replacement	\$1,370.71
Repainting costs	\$ 566.31
Bathtub and bathtub enclosure replacement	\$ 492.00
Cabinet replacement costs	\$2,075.74
Interior cleaning and exterior power washing and lawn care	\$1,035.00
Lock replacement	\$ 135.00
Plumbing	\$ 310.00
Misc. expenses	\$ 100.00
Filing fee	\$ 100.00
Total:	\$9,911.00

I order the landlords to retain the \$850.00 security deposit in partial satisfaction of the claim and I grant them a monetary order for the balance of \$9,061.00. 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: October 24, 2012

Residential Tenancy Branch