



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNSD, O, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order authorizing her to retain the security deposit. Despite having been served with the application for dispute resolution and notice of hearing by registered mail sent on July 30, the tenant did not participate in the conference call hearing.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background, Evidence and Analysis

The landlord's undisputed evidence is as follows. The tenancy began on February 16, 2012 and ended on July 31, 2012, pursuant to a mutual agreement to end tenancy which was signed by both parties. The tenancy agreement had provided for a fixed term ending on August 31, 2012. Rent was set at \$995.00 per month and the tenant paid a \$497.50 security deposit. At the end of the tenancy the parties met to perform a condition inspection of the unit, but the tenant's agent left before the inspection could be completed.

Prior to the end of the tenancy, the landlord gave to the tenant a document entitled "Information for Vacating Tenants" which provided a schedule of fees (the "Fee Schedule") which the landlord proposed to charge if the tenant failed to adequately clean. The tenant signed the document at the bottom.

I address the landlord's claims and my findings around each as follows.

1. **Lawn mowing.** The landlord claims \$25.00 as the cost of mowing the lawn pursuant to the Fee Schedule. The landlord testified that the tenant was responsible for lawn maintenance and that she failed to mow the lawn during and at the end of the tenancy. The landlord claims \$25.00 as the cost of mowing the lawn and explained that the value of the claim was based on the Fee Schedule.

I find that the Fee Schedule is not enforceable as against the tenant. The tenant signed the Fee Schedule, but there is nothing beside her signature indicating that she agreed to be bound by the charges rather than just having signed it to acknowledge that she had received it. The landlord cannot unilaterally impose a pre-determined value for cleaning or repairs and absent the agreement of the tenant, is restricted to recovering reasonable charges for those services. For this reason, I find that the Fee Schedule is unenforceable.

I find that in the case of charging to mow the lawn, that a \$25.00 charge is reasonable. I find that the tenant was responsible to mow the lawn and that the landlord is entitled to recover \$25.00 as the value of lawn mowing. I award the landlord \$25.00.

2. **Replacement of fireplace glass.** The landlord claims \$20.15 as the cost of replacing a broken fireplace door and a further \$25.00 as the cost of installing the door. The landlord testified that the tenant broke the glass door. I accept the landlord's undisputed testimony and I find that the charges incurred are reasonable. I award the landlord \$45.15.
3. **Re-Max fees.** The landlord claims \$100.00 as part of the cost of hiring a property management company to locate a new tenant. The landlord based her claim on the tenant having vacated the unit on July 31 despite having signed a fixed term tenancy agreement which set the end of the tenancy at August 31, 2012. The landlord included with her evidence a copy of a mutual agreement to end tenancy, signed by both parties. I find that because the landlord agreed that the tenant could end the tenancy early, the tenant cannot be held liable for the cost of re-renting the unit. I dismiss this claim.
4. **Cleaning.** The landlord claims \$225.00 as the cost of having the carpet professionally cleaned and a further \$135.00 as the cost of cleaning the rental unit. The landlord's cleaning claims are based on amounts set out in the Fee Schedule. The landlord provided photographs showing the condition of the rental unit at the end of the tenancy.

Residential Tenancy Policy Guideline #1 provides that tenants who live in a rental unit for one year will ordinarily be expected to shampoo carpets at the end of the tenancy. In this case, the tenant lived in the rental unit for just over 5 months.

Section 37(2) of the Act requires a tenant to leave the rental unit reasonably clean at the end of the tenancy. Having viewed the landlord's photographs, I find that for the

most part, the tenant met her obligations and although she did not leave the rental unit spotless, it was reasonably clean with few exceptions. I find that there were a few areas which needed to be wiped down and that the stove required cleaning. I find that no more than 1 hour of additional cleaning would have been required and as I have already found that the rates shown on the Fee Schedule are unenforceable, I find that an hourly rate of \$20.00 is appropriate. I find insufficient evidence to show that the carpet required cleaning. I award the landlord \$20.00 for the cost of cleaning.

5. **Filing fee.** The landlord seeks to recover the \$50.00 filing fee paid to bring her application. As the landlord has been partially successful, I find it appropriate to award her one half of the filing fee and I award her \$25.00.

Conclusion

In summary, the landlord has been successful in the following claims:

Lawn mowing	\$ 25.00
Cleaning	\$ 20.00
Filing fee	\$ 25.00
Total:	\$115.15

The landlord has been awarded \$115.15. I order the landlord to retain this sum from the \$497.50 security deposit and I order the landlord to return the balance of \$382.35 to the tenant forthwith. I grant the tenant a monetary order under section 67 for this sum. 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 15, 2012

Residential Tenancy Branch