



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNDC, MNSD, MND, FF*

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order for unpaid utilities, the cost of repairs, cleaning, to replace missing furniture and for the filing fee. The landlord also applied to retain the security deposit.

The landlord testified that she served the tenant with the notice of hearing by registered mail on July 31, 2012, to the forwarding address provided by the tenant. The landlord filed a tracking slip which indicates that receipt of the package was refused by the tenant. Therefore, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to a monetary order for unpaid utilities, the cost of repairs, cleaning, to replace missing furniture and for the filing fee? Is the landlord entitled to retain the security deposit in partial satisfaction of her claim?

Background and Evidence

The landlord testified that the tenancy started on February 01, 2011 and ended on March 31, 2012. The monthly rent was \$1,800.00 and did not include utilities. The unit was furnished but an itemized list was not included in the tenancy agreement or the addendum to the tenancy agreement.

On April 21, the landlord returned to the rental unit from out of province and found the rental unit vacant with most of the furniture missing. She reported it to the police. The police contacted the tenant and the tenant informed them that the furniture was in the storage area. The landlord found some items in the storage area but stated that several items were missing. The landlord has filed a list of missing items along with a monetary value for each item. The list includes items such as mattress, box spring, dressers, lamps, television set, couch, chair, desks, book shelves, mats, mirrors, shelving etc. The total of the monetary values assigned to these items is approximately \$5,860.00.

The landlord did not provide adequate evidence to support this portion of her claim. She also stated that she had not replaced these items and since they were 5-7 years old, she did not have receipts as proof of purchase. The landlord also did not have any document to indicate that these items were inside the rental unit and that they were provided for the tenant's use.

The landlord also stated that she found her garden and yard in a messy condition with her plants destroyed and branches of the trees cut for firewood. The landlord hired a gardener who installed some Azaleas and covered the yard with bark mulch. The landlord has filed a claim in the amount of \$713.54 for restoration of the yard.

The landlord stated that her refrigerator and stove which were purchased new approximately five years ago were replaced by used appliances. The oven door was not functional and the landlord incurred a cost of 104.10 to repair it. The landlord filed an invoice to support her claim.

The landlord also testified that the laundry machines were missing and they were also purchased new approximately five years ago. The landlord replaced these machines with used ones at a cost of \$582.40 and filed an invoice to support her claim.

The landlord is also claiming \$46.35 to replace the locks, \$71.64 to replace a garden hose and a rake which were approximately 7years old and \$24.68 for cleaning supplies.

The tenant was responsible for the cost of utilities. The landlord filed proof of the unpaid utilities from the local municipality in the amount of \$613.79.

The landlord is also claiming the following:

1.	Missing furniture	5,860.00
3.	Repair oven door	\$104.10
4.	Replace laundry machines	\$582.40
5.	Replace locks	\$46.35
6.	Replace garden hose and rake	\$71.64
7.	Cleaning supplies	\$24.68
8.	Unpaid utilities	\$613.79
9.	Filing fee	\$100.00
	Total	\$8,116.50

Analysis

1. Missing furniture - \$5860.00

The tenancy agreement did not have an itemized list of what was provided for the use of the tenant. The landlord filed a complaint regarding the missing items which were later located in the storage area. Even though the landlord testified that not all the items were found, she did not file adequate evidence to support her monetary claim to replace these alleged missing items. In addition, she testified that she had not replaced these items and therefore had not yet incurred any expenses.

For the above reasons, I find that the landlord has not established a claim for missing furniture and therefore her claim for \$5,860.00 is dismissed.

2. Landscaping - \$713.54

The landlord testified that the yard was not looked after and the plants were all destroyed. The tenancy agreement states that the tenant must "*take care and water the garden*". The landlord filed photographs that show branches of the trees cut off and "*giant Japanese plants reduced to small plants*". The invoice filed by the landlord states that 5 Azaleas were planted and four yards of bark mulch was spread on the lawn.

Based on the evidence and oral testimony, I find that the agreement regarding the maintenance of the yard was ambiguous and did not contain specific tasks that the tenant was responsible for. However, I find that the landlord did incur a cost to restore the yard and will award the landlord a portion of the invoice. Based on the term in the tenancy agreement, I find it appropriate to award the landlord \$200.00 towards the cost she incurred for yard restoration.

3. Repair oven door - \$104.10

Based on the photographs of before and after the tenancy, I find that the original stove was replaced by the tenant with a different model. I accept the landlord's testimony that the replacement stove was older and used and that the oven door was inoperative. Therefore, I find that the landlord is entitled to her claim for the cost of repairs.

4. Replace laundry machines - \$582.40

I accept the landlord's testimony that the tenant removed the five year old laundry machines. The landlord replaced these machines with used ones and incurred a cost of \$582.40. The landlord filed an invoice to support her claim and I find that she is entitled to the cost of replacing the laundry machines.

5. Replace locks - \$46.35

Section 25 of the *Residential Tenancy Act* states that at the request of a tenant at the start of a new tenancy a landlord must change the locks and pay all costs associated with the change. Therefore, I find that the landlord must bear the cost of replacing the locks to ensure the safety of future tenants and/or their belongings.

6. Replace garden hose and rake - \$71.64

The landlord stated that these items were approximately seven years old and therefore I award the landlord a portion of her claim. Section 37 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. I will use this guideline to assess the remainder of the useful life of these items. Based on this guideline, the useful life of these items is ten years and therefore I award the landlord the prorated amount of \$25.00 which represents the approximate balance of the useful life of the missing items.

7. Cleaning supplies - \$24.68

The receipt filed by the landlord is dated July 09, 2012 and the tenancy ended on March 31, 2012. Therefore I find that the landlord is not entitled to the cost of cleaning supplies three months after the tenancy ended.

8. Unpaid utilities - \$613.79

The landlord has filed adequate evidence to support her claim and therefore I find that she is entitled to \$613.79.

9. Filing fee - \$100.00

The landlord has proven her case and therefore is entitled to filing fee.

The landlord has established a claim as follows:

1.	Missing furniture	0.00
3.	Repair oven door	\$104.10
4.	Replace laundry machines	\$582.40
5.	Replace locks	\$0.00
6.	Replace garden hose and rake	\$25.00
7.	Cleaning supplies	\$0.00
8.	Unpaid utilities	\$613.79
9.	Filing fee	\$100.00
	Total	\$1,625.29

I order that the landlord retain the security deposit of \$900.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy*

Act for the balance due of \$725.29. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order of **\$725.29**.

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 16, 2012.

Residential Tenancy Branch