



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

*MNDC, MNSD, MNR, MND, FF.*

### **Introduction.**

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*.

The landlord applied for a monetary order for loss of income, unpaid utilities, cost of repairs and the filing fee and to retain the security deposit in satisfaction of his claim. The tenant applied for the return of double the security deposit and for the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

### **Issues to be decided**

Is the landlord entitled to a monetary order for loss of income, unpaid utilities, cost of repairs and the filing fee? Is the tenant entitled to the return of double the security deposit and the filing fee?

### **Background and Evidence**

The tenancy started on December 01, 2011 and ended on December 31, 2012. The monthly rent was \$2,400.00 payable on the first of each month. Prior to moving in the tenant paid a security deposit of \$1,200.00.

The tenant agreed that a move in inspection was conducted but stated that she was never given a copy of the report. The tenant also pointed out that she never received a copy of the tenancy agreement either.

The tenant agreed that she gave the landlord written notice to end the tenancy on December 01, 2012 with an effective date of December 31, 2012. The landlord stated that he advertised the availability of the rental unit in the mosque and on a popular internet site, but was unable to find a tenant for January 2013.

The tenant testified that there were problems with a leaky toilet and a poorly functioning dryer. When the landlord went to take a look at the dryer he found that it was not the dryer that he had purchased which was still under warrantee. The landlord filed a copy of the receipt for the purchase of the dryer. The tenant responded by saying that the dryer that was present in the suite was the one that was there from the start of tenancy and suggested that the previous tenant may have switched the new dryer for an old one.

The tenant agreed that there were some plumbing issues caused by items deposited into the plumbing system by accident. The landlord is claiming the cost of having the problems fixed and has provided a receipt as proof of payment.

The landlord stated that the tenant did not return the keys even though he visited the unit on December 31, 2012, at the time the tenants were moving out. Both parties had different versions of the conversation that took place between the landlord and one of the tenants who was present at the time and was in the process of moving out. The landlord stated that he requested the tenant to participate in a move out inspection but she refused. The tenant stated that the landlord insisted on the main tenant being present to conduct a move out inspection. In the end, the inspection was not done on December 31, 2012.

On January 01, 2013, the tenant gave the landlord her forwarding address which was a mailing address only. The landlord made a few visits to this address to serve notices of final inspection and the notice of hearing.

The landlord filed photographs that depict the condition of the unit at the end of the tenancy. The photographs indicate that the rental unit was left in a condition that required a lot of cleaning. The appliances were dirty, the walls had streaks of liquid stains, the hardwood was damaged, electrical outlets were broken, the drywall had holes and there was a considerable amount of garbage left inside and outside the rental unit. The tenant stated that she had done "minimal" cleaning.

At the start of the hearing the tenant agreed that she owed for the cost of utilities and for damage to a sheet of plexiglass.

The landlord is claiming the following:

1.	Loss of income for January 2013	\$2,400.00
2.	Utilities	\$390.09
3.	Plexiglass	\$175.00
4.	Dryer	\$308.29
5.	Cleaning	\$300.00
6.	Plumbing	\$311.60
7.	Damage to walls and hardwood	\$300.00
8.	Power bars	\$36.00
9.	Changing of locks	\$55.00
10.	10 pieces of wood	\$30.00
11.	Garbage Removal	\$100.00
12.	Misc repairs	\$100.00
13.	Broken Thermostat	\$26.29
14.	Filing Fee	\$50.00
	Total	<b>\$4,582.27</b>

### **Analysis**

#### **Landlord's application:**

1. Loss of income for January 2013 - \$2,400.00

Section 45 of the *Residential Tenancy Act*, states that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

Based on the testimony of both parties, I accept the landlord's evidence in respect of the claim. In this case the tenant gave notice on December 01 which was the day rent was due. Therefore pursuant to section 45, the tenant did not give the landlord adequate notice to end the tenancy, thereby causing the landlord to suffer a loss of income for the month of January 2013.

Section 7 of the *Residential Tenancy Act* states that a landlord who claims compensation for loss that results from the tenant's non-compliance with the *Act*, the regulations or their tenancy agreement must do whatever is reasonable to minimize the loss. Based on the evidence in front of me, I find that the landlord made reasonable efforts to find a tenant but was unsuccessful. Accordingly, I find that the landlord is entitled to **\$2,400.00**, which is the loss that he suffered.

2. Utilities - \$390.09
3. Plexiglass - \$175.00

The tenant agreed that she owed the landlord for utilities and the plexiglass. Therefore I award the landlord these amounts.

4. Dryer - \$308.29

The landlord stated that he had purchased a new dryer in 2010. Since this dryer was missing from the rental unit, I find that the tenant is responsible for the replacement of the dryer.

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 the dryer. As per this policy, the useful life of appliances is 15 years. The landlord purchased the dryer in May 2010 and therefore by the end of the tenancy, the dryer had 12 years and five months of useful life left. Accordingly, I find that the landlord is entitled to \$253.62 which is the prorated value of the remainder of the useful life of the dryer.

5. Cleaning - \$300.00

The landlord stated that he cleaned the rental unit himself with the help of his spouse. Based on the testimony of both parties and the photographs filed into evidence by the landlord, I find that the landlord is entitled to \$300.00 for his time spent cleaning the rental unit.

6. Plumbing - \$311.60

The tenant agreed that some items had accidentally been deposited into the toilet bowl and caused plumbing problems. The landlord has filed an invoice and therefore I find that the tenant is responsible for the cost of plumbing.

7. Damage to walls and hardwood - \$300.00

The landlord filed photographs that indicate that there was considerable damage to the walls and the hardwood. Therefore I find that the tenant is responsible for the repair.

8. Power bars - \$36.00
9. Changing of locks - \$55.00
10. 10 pieces of wood - \$30

The landlord did not offer adequate evidence to support the above three claims and therefore I dismiss these claims.

## 11. Garbage removal - \$100.00

The landlord filed photographs of the garbage left in and around the rental unit. I find that the landlord is entitled to \$100.00 for the removal of garbage.

## 12. Miscellaneous repairs - \$100.00

The landlord stated that he spent time fixing various items around the rental unit that were broken by the tenant. He also incurred costs for supplies. I find that the landlord is entitled to his claim for \$100.00

## 13. Broken thermostat - \$26.29

The landlord filed a receipt for the purchase of a new thermostat to replace the one broken at the end of the tenancy. I find that the landlord is entitled to this claim.

## 14. Filing fee - \$50.00

The landlord has proven a major portion of his claim and is therefore entitled to the recovery of the filing fee.

Overall the landlord has established a claim of:

1.	Loss of income for January 2013	\$2,400.00
2.	Utilities	\$390.09
3.	Plexiglass	\$175.00
4.	Dryer	\$253.62
5.	Cleaning	\$300.00
6.	Plumbing	\$311.60
7.	Damage to walls and hardwood	\$300.00
8.	Power bars	\$0.00
9.	Changing of locks	\$0.00
10.	10 pieces of wood	\$0.00
11.	Garbage Removal	\$100.00
12.	Misc repairs	\$100.00
13.	Broken Thermostat	\$26.29
14.	Filing fee	\$50.00
	<b>Total</b>	<b>\$4,406.60</b>

Tenant's application:

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing.

If the landlord fails to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the security deposit.

In this case, the tenancy ended on December 31, 2012 and the tenant provided the landlord with her forwarding address in writing on January 01, 2013. The landlord filed his application on January 15, 2013 which is within the legislated time frame of 15 days. Therefore the tenant is not entitled to the return of double the security deposit.

Since the tenant has not proven her case, she must bear the cost of filing her application.

The landlord has established a claim of \$4,406.60. I order that the landlord retain the deposit of \$1,200.00 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 \$3,206.60. 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 in the amount of **\$3,206.60**.

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: March 28, 2013

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Residential Tenancy Branch

