



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNSD, MNDC, FF, O

### Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for a monetary order for damage to the unit, site or property; for a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit; and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the conference call hearing, gave affirmed testimony and provided evidentiary material prior to the commencement of the hearing to the tenant and to the Residential Tenancy Branch. The landlord provided a copy of the Canada Post delivery confirmation document showing that the tenant was served with the Landlord's Application for Dispute Resolution, notice of hearing and evidence by registered mail on March 28, 2013. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

The line remained open while the phone system was monitored for 10 minutes during which time tenant did not attend and the hearing commenced in the absence of the tenant. Well into the hearing and during testimony of the landlord, the tenant attended the hearing with a person to assist with a language barrier. The tenant had not heard most of the landlord's testimony however the tenant also gave affirmed testimony.

All evidence and testimony provided has been reviewed and is considered in this decision.

### Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenant for damage to the unit, site or property?

- Has the landlord established a monetary claim as against the tenant for unpaid rent or utilities?
- Has the landlord established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?
- Is the landlord entitled to keep all or part of the pet damage deposit or security deposit in full or partial satisfaction of the claim?

### Background and Evidence

The landlord testified that this month-to-month tenancy began on June 1, 2012, although the tenant did not move into the rental unit. Rent in the amount of \$2,200.00 per month was payable in advance on the 1<sup>st</sup> day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$1,100.00 which is still held in trust by the landlord.

The landlord further testified that on August 2, 2012 the tenant was arrested by the RCMP, at which time the house was declared a marihuana grow operation and the hydro meter was removed at the request of police. The landlord was notified on August 3, 2012 by the RCMP.

On August 7, 2012 the landlord received a letter from the City dated August 2, 2012 stating that the rental unit was declared unsafe to occupy by the Chief Building Inspector and stated that the rental unit must stay vacant until a new safety inspection had been completed. A copy of the letter was provided for this hearing, and it also contains requirements to enable the building to be re-occupied. The inspection fee is noted at \$556.64. A written list of items to be corrected would follow, and permits may be required, as well as a generator in order to test the furnace and electrical systems. The landlord claims the City's inspection fee from the tenant.

The landlord further testified that no repairs can be completed unless contractors are guaranteed safety according to Worksafe rules. The requirement is for an Industrial Hygienist to sign a report called a "Clean up Certificate." Once the City has the certificate from the owner the City then inspects the final job. The landlord has provided an invoice from the Industrial Hygienist totalling \$2,000.00 plus \$240.00 for HST, which the landlord claims as against the tenant.

The landlord also testified that in order to have the electrical reconnected the cost of the service by BC Hydro was \$342.72. The landlord claims that amount from the tenant, and provided a copy of the hydro bill to substantiate that cost.

The tenant paid rent in full for the months of June, July and August, 2012, however the rental unit was not able to be re-rented as a result of its condition, and the landlord requests 4 months of loss of revenue from the tenant, being \$8,800.00.

The landlord was successful in obtaining an Order of Possession on August 31, 2012, and the landlord claims the \$50.00 filing fee with respect to that application from the tenant.

The landlord further testified that the police used a battering ram to enter the rental unit, and the landlord had to replace the door and repair the door jam. The cost to replace the door was \$273.64 and the landlord has provided receipts from The Home Depot. The first receipt totals \$199.33 and shows a cost of \$164.99 for the door, \$3.99 for a knife, and \$8.99 for some Poly Rope. Another receipt shows \$44.99 for a lock and \$59.99 for a drill, as well as \$4.99 for Led Flash which the landlord testified was for repairing the frame, \$1.25 for an Eco Fee, and another cost of \$3.99 which the landlord was not able to explain but guessed that it was for screws.

The third receipt shows a fee of \$119.91 for paint, an eco fee of \$1.80, \$6.29 for blades and HST in the amount of \$15.36.

The landlord has also provided an invoice in the amount of \$188.16 for carpet cleaning, and the invoice contains the address of the rental unit.

The landlord also claims \$223.99 for the purchase of a generator required by the City as well as \$5,328.40 for completing the electrical work and obtaining permits. Receipts for all associated costs have been provided.

The tenant testified that the door was not broken by the police, but the tenant opened the door. A small door on the garage was broken by the police.

The tenant denies having a marihuana grow operation but admitted that a Court date has been set.

### Analysis

Firstly, with respect to the landlord's claim for loss of rental revenue, I have reviewed the documentation, and I accept that there was no power in the rental unit from August 2 to December 15, 2012 as a result of the police intervention. The tenant has paid rent in full for the month of August, 2012 and in the circumstances I find that the landlord is

entitled to a monetary order for rental losses for September through December, 2012 in the amount of \$8,800.00.

With respect to the landlord's claim for damages, the onus is on the landlord to satisfy the 4-part test for damages:

1. That the damage or loss exists;
2. That the damage or loss exists as a result of the tenant's failure to comply with the *Act* or the tenancy agreement;
3. The amount of such damage or loss; and
4. What efforts the landlord made to mitigate, or reduce such damage or loss.

In this case, I have reviewed the receipts and considering the landlord's testimony, I am satisfied that the landlord has established a claim for the damaged door in the amount of \$199.33, as well as a new lock for \$44.99 and repair supplies in the amount of \$4.99 and taxes on that receipt in the amount of \$6.00. I am not satisfied that the tenant ought to pay the landlord for purchasing a new drill at the cost of \$59.99 plus taxes, and the landlord was not able to explain the remaining purchases on that receipt.

I am also satisfied that the landlord has established that as a result of this tenancy, the landlord had to re-paint the rental unit and has established the claim of \$143.36.

I am also satisfied that the landlord has established a need to clean the carpets, and the amount of \$188.16 by a copy of the invoice.

I further find that the landlord was required to pay for the Industrial Hygienist and the City fees of \$2,240.00 and \$556.64 respectively as a result of this tenancy and the landlord has established those amounts.

Similarly, I find that the landlord was required to complete the services respecting electrical repairs and a permit to ensure the electrical service was to the code as per the City by-laws, and the landlord has established a monetary claim as against the tenant in the amount of \$5,328.40.

Although I am satisfied from the letter given to the landlord by the City that the landlord was required to place a generator in the rental unit, I am not satisfied that the tenant should reimburse the landlord for its purchase.

I have also considered the landlord's claim for payment of the hydro bill for service alteration, and I find that the landlord has established a claim in the amount of \$342.72.

I have also considered the landlord's request for recovery of the \$50.00 filing fee for the cost of the application made when the landlord was successful in obtaining an Order of Possession. The landlord has provided a copy of that order, and I am satisfied that the landlord is entitled to recovery of that fee.

I have also reviewed the landlord's Monetary Order Request worksheet which I find contains an addition error. The worksheet totals the claims at \$18,122.99 however my calculations show a total claim of \$18,147.01.

In summary, I find that the landlord has established a claim as against the tenant for:

- unpaid rent for September through December, 2012 totalling \$8,800.00;
- the damaged door in the amount of \$199.33;
- a new lock, repair supplies and taxes totalling \$55.98;
- paint and supplies for \$143.36;
- carpet cleaning in the amount of \$188.16;
- Industrial Hygienist fees in the amount of \$2,240.00;
- City fees in the amount of \$556.64;
- electrical repairs and permit totalling \$5,328.40;
- the hydro bill in the amount of \$342.72;
- recovery of the \$50.00 filing fee for the cost of applying for an Order of Possession.

The balance of the landlord's claim is hereby dismissed.

Since the landlord has been partially successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application, for a total of \$18,004.59.

I hereby order the landlord to keep the security deposit in the amount of \$1,100.00 in partial satisfaction of the claim and I grant the landlord a monetary order for the balance in the amount of \$16,904.59.

Conclusion

For the reasons set out above, I hereby order the landlord to keep the security deposit of \$1,100.00 in partial satisfaction of the claim and I grant a monetary order in favour of the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$16,904.59.

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: July 09, 2013

---

Residential Tenancy Branch