



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenants security deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenants for the cost of this application.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*; served in person on September 14, 2013.

The landlord's agent appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for damage to the unit, site or property?

- Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss?
- Is the landlord permitted to keep all or part of the security deposit?

Background and Evidence

The landlord's agent testifies that this tenancy started on March 01, 2012 for a fixed term tenancy of one year. The tenancy reverted to a month to month tenancy at the end of the fixed term. Rent for this unit was \$2,000.00 per month and was due on the 1st day of each month. Utilities were not included in the rent. The tenants paid a security deposit of \$1,000.00 on January 27, 2012. Both parties attended a move in inspection at the start of the tenancy and the landlord and an agent for the tenants attended a move out inspection when the tenancy ended on August 30, 2013. The tenants' agent provided a forwarding address for the tenants on the move out inspection report.

The landlord's agent testifies that the tenants left areas on nearly all the walls with dents, scuffs and dirty marks. This was beyond normal wear and tear and the landlord had to pay \$273.00 to have the walls repaired and re-painted. The landlord has provided some photographic evidence and an invoice for the cost of the repair.

The landlord's agent testifies that the tenants did not leave the carpets clean at the end of the tenancy and there were also some stains that could not be removed through carpet cleaning. One carpet with staining had to be replaced. However, the landlord seeks only the cost for carpet cleaning of \$275.10.

The landlord's agent testifies that the house was generally unclean at the end of the tenancy. The kitchen required cleaning as did window sills, window trims, and baseboards. The garage was also left in a disgusting condition. The tenants were given the opportunity to take another half day to clean the unit but the tenants refused and instead said the landlord could deduct the cleaning from the security deposit. The

landlord engaged the services of a cleaning company and this resulted in two cleaners working for four hours each. The cleaners charge \$25.00 per hour and have provided an invoice for \$200.00.

The landlord's agent testifies that the tenants rented the house and yard and were responsible for yard maintenance. The tenants did maintain the grass by mowing it on occasion but would also ask the landlord to provide some help with yard maintenance which the landlord did throughout the tenancy. At the end of the tenancy the landlord had to pay someone to landscape the yard again by clearing weeds, tidying up the lawn and spraying for weed control because the tenant had not maintained the yard. The landlord seeks to recover the amount of \$601.13 for this work.

The landlord's agent testifies that the tenants caused some damage to the stone work at the front of the house when they backed their boat into the house. This resulted in some of the stone work being knocked off. The tenants also informed the landlord that they had dropped an object behind the television which cracked and chipped a tile. The landlord had a company repair the stone work and the broken tile and seeks to recover the cost for this work to an amount of \$420.00.

The landlord's agent testifies that the tenants did not inform the landlord that they had a pet ferret. When the landlord did some showings in the unit this ferret was running free in the house. The tenants informed the landlord that the ferret had caused some pulls in the carpet threads. The landlord has able to get a maintenance man to fit a transition piece over this pull to cover the area of damage, rather than to replace the whole carpet. The landlord seeks to recover the cost for this work of \$63.00.

The landlord has provided a copy of the tenancy agreement and photographic evidence showing the damage to the unit along with a copy of the inspection reports. The landlord has also provided copies of invoices for all the work claimed.

The landlord's agent requests to amend their application to include an unpaid utility bill for \$118.97. The landlord's agent testifies that a copy of this bill was sent to the tenants in the landlord's evidence package on November 12, 2013 by registered mail. However, the tenants have failed to pay this water bill. The tenancy agreement shows that water is not included in the rent.

The landlord seeks an Order to keep the security deposit of \$1,000.00 in partial satisfaction of this claim and to recover the \$50.00 filing fee from the tenants.

Analysis

The tenants did not appear at the hearing to dispute the landlord's claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenants, I have carefully considered the landlord's documentary evidence and sworn testimony before me.

In this instance the burden of proof is on the claimant to prove the existence of the damage or loss and that it stemmed directly from a violation of the agreement or contravention of the *Act* on the part of the respondent. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. Finally it must be proven that the claimant did everything possible to address the situation and to mitigate the damage or losses that were incurred.

I am satisfied from the undisputed evidence before me that the tenants failed to repair damage to the walls of the unit that was more than normal wear and tear. I am satisfied that the tenants did not leave the rental unit in a reasonably clean condition at the end of the tenancy including the carpets. I am also satisfied that the tenants did not repair damage to the carpets, the stone work or the broken tile and find the tenants were responsible for yard work which was also neglected. I am satisfied that the landlord has provided evidence to show the cost for these repairs, yard work and cleaning and that

the landlord did what they could to mitigate the loss by not replacing the damaged carpets but instead finding a cheaper solution for the repairs.

Consequently, I find the landlord has established a claim for this above mentioned work to the total sum of **\$1,832.23** pursuant to s. 67 of the *Act*.

The landlord's agent has requested to amend this claim to include an unpaid water bill which was provided to the tenants with the landlord's evidence package and to date remains unpaid. I have considered this bill and will allow the landlord to amend this application to include the unpaid water bill as the tenants would be aware it was not paid and should have paid it within 30 days of receiving it from the landlord.

Consequently I find the landlord has established a claim to recover this unpaid utility bill of **\$118.97** pursuant to s. 67 of the *Act*.

I ORDER the landlord to retain the security deposit of **\$1000.00** pursuant to s. 38(4)(b) of the *Act*. This amount will be offset against the landlord's monetary claim.

I further find the landlord is entitled to recover the filing fee from the tenants of **\$50.00** pursuant to s. 72(1) of the *Act*. A Monetary Order has been issued to the landlord for the following amount:

Damages, yard work and cleaning	\$1,832.23
Water bill	\$118.97
Filing fee	\$50.00
Less security deposit	(-\$1,000.00)
Total amount due to the landlord	\$1,001.20

Conclusion

I HEREBY FIND in favor of the landlord's amended monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,001.20**. The Order

must be served on the respondents. Should the respondents fail to comply with the Order, the Order may be enforced through the Provincial Court 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: November 25, 2013

Residential Tenancy Branch

