



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the tenants for an order compelling the landlords to return double their security and pet deposits and a cross-application by the landlords for a monetary order and an order to retain the security and pet deposits. Both parties participated in the conference call hearing.

The landlords submitted with their evidence a CD on which they saved photographs of the residential property. The tenant advised that he had not looked at the photographs because he didn't have a computer at the moment but made no objection to me accepting the contents of the CD into evidence.

Issues to be Decided

Are the tenants entitled to a monetary order as claimed?
Are the landlords entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenancy began on July 1, 2012 and ended on November 30, 2013. They further agreed that at the outset of the tenancy, the tenants paid a \$750.00 pet deposit and a \$750.00 security deposit. They further agreed that the tenants sent their forwarding address via email on December 17, 2013 and by Canada Post on January 11, 2014, although they could not agree on whether the letter mail was sent via regular or registered mail.

The landlords testified that at the end of the tenancy, the rental unit was not left reasonably clean condition and that some repairs were required. Specifically, they claimed that they had to clean or repair the following and they claim for their labour as outlined below:

Cleaning/repair work performed	Hourly rate	Time spent	Value
Washing walls	\$25.00	10 hours	\$250.00
Cleaning window frames	\$25.00	1 hour	\$25.00
Removing carpet stains	\$25.00	5 hours	\$125.00 *
Cleaning fans	\$25.00	4 hours	\$100.00
Cleaning sliding door	\$25.00	3 hours	\$75.00
Cleaning tool shed	\$25.00	1 hour	\$25.00
Repainting bathroom, bedroom and hall	\$25.00	6 hours	\$150.00
Repair cabinet	\$25.00	2 hours	\$50.00
Clean outside windows	\$25.00	2 hours	\$50.00
Total value of work performed:			\$850.00

* The landlords calculated the value of the time spent removing stains from carpet as \$12.50. This is clearly an error and I consider that claim to be \$125.00.

The landlords provided photographs showing stains and soiling on the walls and carpet, dust and dirt on fans and globe lights, areas of the wall which were repainted and the yard and side of the house. They claimed that several rooms had to be repainted because the tenant had painted poorly and had not sanded the walls and patches before applying paint. The landlords further testified that the tracks on the sliding door were so full of dog hair, the door could not function properly until the hair was removed. The landlords claimed that the cabinet which required repair was damaged as a result of a sink leaking onto the floor of the cabinet. They asserted that the tenants did not tell them that there was a leak and therefore they were unaware of the leak until the tenancy had ended.

The tenants testified that they thoroughly cleaned the house and provided an invoice dated November 30, 2014 in which a party acknowledged having received \$200 from the tenants to clean the kitchen, laundry room and 2 bathrooms. The tenant's witness testified that he helped the tenant clean and move and that he saw the carpet cleaners come and go. He argued that washing walls and the cleaning described by the landlords should be characterized as normal wear and tear and stated that the patio door was not malfunctioning. The tenant claimed that there were problems with the sink when he moved into the rental unit but acknowledged that he did not report the leak to the landlord during the tenancy.

The landlords testified that at the end of the tenancy, the walkway, patio and garage were covered with dog hair and the yard was torn up and the tenants' dog had dug holes in it. The landlords hired a landscaping company to repair the yard. The

landlords testified that they removed the dog hair and a pervasive dog odour from other areas by using a pressure washer. They claim for their labour as outlined below:

Outside work performed	Hourly rate	Time spent	Value
Landscaping work	\$50.00	8.1 hours	\$420.00
Pressure wash walkway and patio	\$25.00	4 hours	\$100.00
Pressure wash garage	\$25.00	1 hour	\$25.00
Total value of work performed:			\$545.00

The tenants testified that they thoroughly raked the yard and removed dog hair from the yard. They did not comment on the condition of the lawn.

The landlords also claimed lost wages for the time spent preparing for this hearing. At the hearing, I explained to the landlords that the only litigation-related expense I am empowered to award under the Act is the filing fee and I advised that this part of the claim would be dismissed.

Both parties seek to recover the \$50.00 filing fees paid to bring their applications.

Analysis

First addressing the tenant's claim, s. 38 of the Act provides that when a tenant has both moved out of the rental unit and given their forwarding address in writing, the landlord has 15 days in which to either file an application for dispute resolution making a claim against the security and pet deposit or to return the deposits in full. Failure to comply with this direction results in the landlord being liable for double the deposits.

In this case, the landlords acknowledged having received the forwarding address in writing on January 11. S. 88 of the Act allows for forwarding addresses to be sent via regular mail. The landlords did not file their application for dispute resolution until March 18, 9 weeks after having received the forwarding address. I find that pursuant to s. 38(6)(b) of the Act, the landlords are liable for double the deposits. The landlords hold a \$750.00 pet deposit and a \$750.00 security deposit. I award the tenants \$3,000.00 which is double the amount of the deposits.

Turning to the landlords' claim, I find the landlords' photos to be very persuasive and I find that they accurately represent the condition of the rental unit at the end of the tenancy. The tenant's witness argued that soiling, stains and dust can be characterized as reasonable wear and tear. I disagree. The Act specifically imposes upon tenants an obligation at the end of a tenancy to leave the rental unit in reasonably clean condition.

The photographs show that while some parts of the unit were clean, others were not. The walls clearly needed to be washed, there were stains in the carpet which the landlord was able to remove, fans and light fixtures were dusty. I find the landlords' claims for the labour to clean these items to be reasonable and I allow the claims.

The landlords provided no photographs of the window frames, sliding door, tool shed or cabinet. As the tenant claimed to have cleaned and as the landlords have no evidence to corroborate their claim that these areas were unreasonably soiled or damaged, I find that the landlords have not proven their claim for the labour involved with cleaning and repairing those areas and I dismiss those claims.

I find that several rooms required repainting due to the tenants having carelessly painted and I allow the claim for painting.

Residential Tenancy Policy Guideline #1 provides that landlords are responsible to clean exterior windows. I therefore dismiss the claim for the cost of cleaning outside windows.

I find it more likely than not that the tenants' dog caused the damage to the back yard and that the tenants failed to adequately maintain the lawn and rake leaves. I allow the claim for the cost of cleaning the back yard.

I dismiss the claim for the time spent pressure washing as the landlord provided no photographs showing that this was necessary.

In summary, the landlord has been successful as follows:

Work performed	Value
Washing walls	\$ 250.00
Removing carpet stains	\$ 125.00
Cleaning fans	\$ 100.00
Repainting bathroom, bedroom and hall	\$ 150.00
Landscaping work	\$ 420.00
Total:	\$1,045.00

As both parties enjoyed some success, I find it appropriate that they each bear the cost of their own filing fees.

Conclusion

The tenants have been awarded \$3,000.00 and the landlords have been awarded \$1,045.00. Setting off these awards as against each other leaves a balance of \$1,955.00 in favour of the tenants and I grant the tenants a monetary order under section 67 for that 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: June 03, 2014

Residential Tenancy Branch

