



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, FF

Introduction

This hearing dealt with an application by the landlords for a monetary order. Both parties participated in the conference call hearing.

Issue to be Decided

Are the landlords entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenancy began on February 15, 2014 and ended on June 14, 2014. They further agreed that monthly rent was set at \$1,150.00 and that the landlords returned to the tenant the pet and security deposits.

The landlords testified that at the end of the tenancy, they discovered that there was a strong odour of cat urine in the rental unit. The parties agreed that in a downstairs basement room where the tenant had kept the cat litterbox, there was staining on the flooring and a strong odour because the litterbox had leaked. The tenant obtained laminate flooring to replace the flooring in that room and provided it to the landlord. She offered to have a friend install the laminate, but the landlords refused that offer.

The landlords returned the pet and security deposits to the tenant on the condition that she return and clean the unit more thoroughly to remove the odour from her pet. The tenant returned and cleaned the unit as promised and after she cleaned, the landlord advised that the unit appeared to be OK.

The landlords testified that when they went into the unit the morning after the tenant had cleaned, the odour of cat urine was overpowering. The landlords had met that morning with the new occupant to conduct a condition inspection, but they determined that the new occupant could not reside in the unit until repairs had been completed. The

landlords submitted a letter from the new occupant in which she indicated that she could not reside in the unit until July 1 due to the repairs that were required to address the odour. The landlords also submitted letters from other third parties who wrote that there was a strong odour of cat urine throughout the rental unit.

The landlords seek \$575.00 in lost income for the latter half of June as they were unable to re-rent the unit during that period.

The landlords also seek the cost of materials and labour to replace the flooring, remove and reinstall baseboards, repaint bedroom walls and clean floors and walls. The total for this part of their claim is \$1,769.01. The landlords valued their labour for installing laminate and vinyl planking at \$2.00 per square foot, for removing and re-installing baseboards at \$35.00 per hour, for painting at \$45.00 per hour and for cleaning at \$25.00 per hour. They testified that they arrived at these values by asking professionals what they would charge to perform those tasks.

The tenant testified that she was certain that there was no odour left in the rental unit after she cleaned the unit the second time at the landlord's request. She provided letters from third parties who wrote that there was no odour of cat urine anywhere but in the room where the litterbox was kept.

The tenant argued that the cost of the installation of flooring in the litterbox room could have been eliminated had the landlords agreed to allow her friend to install the flooring. She further argued that no further cleaning was required and no further flooring required replacement. The tenant insisted that although her cat is a male and unneutered, he has never sprayed and did not urinate anywhere other than in the litterbox.

The tenant also argued that the landlords purchased the rental unit in December 2013 during the winter and may not have noticed a pre-existing odour at that time because of the cold weather. She suggested that the odour pre-dated her tenancy. The landlord responded to this by testifying that the previous owner was an acquaintance who did not have a cat and that they had been in his home a number of times in the year prior to the time they purchased it.

Analysis

The *Residential Tenancy Act* (the “Act”) establishes the following test which must be met in order for a party to succeed in a monetary claim.

1. Proof that the Respondent caused the Applicant to incur a compensable loss – s. 7(1);
2. Proof that the loss was suffered as a result of the Respondent’s failure to comply with the Act or Tenancy Agreement – s. 7(1);
3. Proof that the Applicant took reasonable steps to minimize the loss – s. 7(2).

The landlords must prove their claim on the balance of probabilities, meaning that it is more likely than not that the tenant caused the damage and loss in question.

I find it more likely than not that the tenant left the rental unit with a strong odour which required the landlord to remove flooring and perform additional cleaning. I have arrived at this conclusion for a number of reasons. The tenant and her supporters who wrote statements all claim that at the time she moved out there was no odour in the rental unit other than in the litterbox room, but the tenant agreed to come back to the unit to perform additional cleaning to remove the odour from the home. I find it unlikely that the tenant would have agreed to perform additional cleaning if it was not required. The flooring in question was not old and in otherwise good condition and I see no reason why the landlords would replace that flooring with exactly the same product if it were not damaged. The new occupant wrote that she could not move in because of the odour and I find it unlikely that the landlords would risk souring a relationship with a new tenant to perform work which was not required.

I find it likely that the tenant’s additional cleaning masked the odour enough to make it appear as though the problem had been resolved, but the odour became apparent again after the rental unit was closed up for the night.

The tenant had an obligation to leave the rental unit in reasonably clean condition and I find that she breached that obligation by leaving behind staining and an odour which required the landlord to incur some expenses. I find that the landlords acted reasonably to minimize their losses, performing the labour themselves and restricting the replacement of the flooring only to those small areas which required it. I find that the landlords have met the test outlined above.

The landlords are entitled to recover not the replacement value of the flooring, but the actual value at the time of loss. Residential Tenancy Policy Guideline #40 identifies the useful life of building elements and lists 10 years as the life of this type of flooring. The

landlords testified that the flooring in the basement was installed in 2011 which means that it had expended 30% of its useful life. The landlords testified that the flooring on the upper floor was installed at some time prior to 2011. In the absence of an exact date and judging from the condition of the flooring, I find that it was likely approximately 5 years old which meant it had expended 50% of its useful life. I find that the landlords are entitled to recover 70% of the value of the basement flooring. The landlords spent \$155.42 for the basement flooring and are entitled to recover 70% which amounts to \$108.79. The landlords are entitled to recover 50% of the upstairs flooring which amounts to \$154.14. I award the landlords \$262.93.

While I appreciate that the landlords attempted to be fair in their estimate of the value of labour by ascertaining the cost of a professional to perform the same work, the landlords are not professionals and I am not persuaded that they work as quickly or as efficiently as would a professional. I find that their labour should be charged at \$25.00 per hour for those tasks for which they charged an hourly rate and at \$1.00 per square foot for installing the flooring. I find that the landlords should recover 70% of the value of their labour for the basement and 50% of the value of their labour for the upper floor.

I accept that in order to install the flooring, the landlords had to remove and replace the baseboards. For replacing the basement flooring, I find the landlords are entitled to recover \$1.00 per square foot discounted by 30% for a total of \$157.50. For 4 hours of work removing and reinstalling the baseboards in the basement, I find the landlords are entitled to recover \$25.00 per hour discounted by 30% for a total of \$70.00. For replacing the flooring on the upper floor, I find the landlords are entitled to recover \$1.00 per square foot discounted by 50% for a total of \$60.00. For 1 hour of work removing and reinstalling the baseboards on the upper floor, I find the landlords are entitled to recover \$25.00 per hour discounted by 50% for a total of \$12.50.

I find that the landlords are entitled to recover the value of their labour in cleaning the rental unit and preparing the walls for painting. They spent a total of 4 hours at a rate of \$25.00 per hour for a total of \$100.00.

While the interior paint had a useful life of 4 years and was almost at the end of that life, I find that the landlords should recover the entire cost of paint and their labour because I find that additional work is required to prepare walls to mask a cat urine odour. I find the landlords are entitled to recover the entire amount of the supplies for painting, cleaning and caulking. The receipts are for \$22.91, \$76.78 and \$60.62, totaling \$160.31.

I find that the landlords should recover the entire value of their labour for painting. For the basement, the landlords worked for 1 hour and are entitled to \$25.00. For the upper floor, the landlords worked for 3 hours and are entitled to \$75.00.

I find that the landlords were unable to re-rent the unit on June 15 as intended as a direct result of the repairs which were required. I find that the tenant is liable for \$575.00 in lost income.

As the landlords have been substantially successful in their claim, I find that they are entitled to recover their \$50.00 filing fee from the tenant.

Conclusion

The landlords have been successful as follows:

Basement flooring	\$ 108.79
Upstairs flooring	\$ 262.93
Basement flooring labour	\$ 157.50
Upstairs flooring labour	\$ 60.00
Basement baseboard labour	\$ 70.00
Upstairs baseboard labour	\$ 12.50
Cleaning	\$ 100.00
Supplies	\$ 160.31
Basement painting labour	\$ 25.00
Upstairs painting labour	\$ 75.00
Lost income	\$ 575.00
Filing fee	\$ 50.00
Total:	\$1,657.03

I grant the landlords a monetary order under section 67 for \$1,657.03. 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: January 7, 2015

Residential Tenancy Branch

