



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNDC MNSD FF

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- a) A monetary order pursuant to Sections 45, 46 and 67 for unpaid rent and damages;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

### **SERVICE:**

Both parties attended and the tenant agreed he received the Application for Dispute Resolution by registered mail. I find that the male tenant was legally served with the documents according to sections 88 and 89 of the Act.

**Amendment:** The landlord was unable to serve the female tenant with the Application/Notice of Hearing. The male tenant said he was the only one who signed the lease and he takes full responsibility; his female friend did not live there all the time. He requests the Application, Decision and Order be amended to delete his female friend's name. The landlord did not object. In evidence is the lease with only the signature of the male tenant. The amendment is granted to delete the female's name from the Decision and Order.

### **Issue(s) to be Decided:**

Has the landlord proved on the balance of probabilities that the tenant owes rent and did damages to the property, that they were beyond reasonable wear and tear and the cost to cure the damage? Is the landlord entitled to recover the filing fee?

### **Background and Evidence:**

Both parties attended and were given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced in late

March 2013 on a fixed term lease expiring on March 31, 2015. A security deposit of \$1900 and a pet damage deposit of \$600 were paid in February 2013 and they remain in trust. Rent is currently \$3750 a month. It is undisputed that the tenant did not pay rent for January, February or March 2015 so the tenant owes \$11,275.00. The tenant said he had experienced unfortunate circumstances and had given Notice to End his tenancy in April 2014 when he realized he could no longer afford it. The landlord said he granted the tenant permission to sublease the unit but neither he nor the tenant were able to do so and the tenant remained in residence until January 2015; the landlord said if they had known he was vacating in February 2015, they could have re-rented for March 2015. They have rented the unit commencing April 1, 2015.

The landlord also claims damages as follows:

\$12,890: painting and repairs. When asked to specify items, the landlord said it was

- (i) Approximately \$6,000 for painting. The tenants had damaged the walls but also painted some green that had to be repainted.
- (ii) \$2,000 for drywall repair. The tenants had mounted and removed TVs on the walls and also made gouges in moving in and out with furniture.
- (iii) \$3,000 for granite counter replacement as it was burned.
- (iv) \$1,000 to fix gouges in hardwood floors.

The landlord also claims \$150 to change locks as the tenants did not leave the front door and mail key. He said it would have cost \$400 to remove items left behind but the painters cleared that out. It is undisputed that the building was built about 2003 so was about 12 years old when the tenant left in 2015.

The tenant pointed out that some wear and tear was noted on the condition inspection report at move-in. He said they cleaned the carpet and left the receipt with the keys when they left. The landlord agreed he received the receipt and fobs but some keys were missing. He said there was no communication with the tenant near the end. The tenant also objected to the whole number estimate with no break down of items by the contractors so he could not file evidence to refute individual items. I explained the Residential Policy Guideline which calculates useful life of items in rented premises and is designed to account for reasonable wear and tear and prior tenancies.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

## **Analysis**

Monetary Order:

The onus of proof is on the landlord to prove that the tenant rent is owed and the tenant did damage to the property, that it was beyond reasonable wear and tear and the amount it cost to cure this damage. I find the weight of the evidence is that the tenant owes \$11,275 in unpaid rent for January to March 2015. Although the tenant stated he gave a Notice to End Tenancy in April 2014 because he could no longer afford it, I find he had a fixed term tenancy and any Notice to End this tenancy would not take effect until the end of the tenancy according to section 45(2)(b). I find the landlord did try to mitigate and assist by giving him permission to sublease but neither he nor the landlord was successful in finding another tenant. I find the landlord is entitled to a monetary order for \$11,275 for rent arrears.

As explained to the parties in the hearing, the Residential Policy Guideline assigns a useful life for elements in rented units which is designed to account for reasonable wear and tear. I find paint is assigned a useful life of 4 years and I accept the landlord's evidence that the paint was 2 years old at move out as, although there were some dents noted in moulding in the condition inspection report at move-in, I find no damage is noted to the paint. I find the landlord entitled to recover 50% of the cost of repainting or \$3,000. Drywall is assigned a useful life of 20 years and this drywall that was 12 years old cost \$2,000 to repair; I find the landlord entitled to recover 40% of the cost or \$800 for the useful life remaining at time of move-out. The granite counters were also 12 years old and cost \$3,000 to replace due to burns; counters are assigned a useful life of 25 years so I find the landlord entitled to recover \$1560 (52%) of the cost for the 13 years of useful life remaining at the time of replacement. The evidence is that the hardwood floors had to be repaired at a cost of \$1,000; hardwood flooring is assigned a useful life of 20 years so I find the landlord entitled to recover \$400 for the cost of repair to floors that had 40% of useful life remaining. I note the contractor quote was for a total of \$12,890 for all repairs and the itemized list given by the landlord in the hearing totalled \$12,000. He said the contractor had removed the junk and discarded items also and the landlord said he had another quote for this of \$400 but the painter did it. I find the quote reasonable and I find the landlord entitled to reimbursement for this junk removal in the amount of \$400 which was the lower bid he received.

I find the landlord also entitled to recover \$151.83 for key replacement. I find the landlord's evidence credible that he received the carpet cleaning receipt and fobs but some keys were missing. Although the tenant said he left fobs and keys, I find insufficient evidence from the tenant of the number and names of the keys he left. The landlord also noted some utility bills were owed but this was not part of his claim so is not considered.

**Conclusion:**

I find the landlord is entitled to a monetary order as calculated below. I find the landlord is entitled to retain the security deposit and pet damage deposit to offset the amount owing and to recover filing fees of \$100 paid for this application.

## Calculation of Monetary Award:

Rent arrears	11,275.00
Paint allowance	3,000.00
Drywall repair allowance	800.00
Granite counter allowance	1560.00
Hardwood Floor allowance	400.00
Junk and item removal	400.00
Key replacement	151.83
Filing fee	100.00
Less deposits (no interest 2013-15)	-2500.00
Total Monetary Order to Landlord	15,186.83

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: April 22, 2015

---

Residential Tenancy Branch

