



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LAURENA THE BEVERLY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: *MNDC, MNSD, MND, FF.*

Introduction.

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlords applied for a monetary order for loss of income, cost of repairs and cleaning, the filing fee and to retain the security deposit in satisfaction of the claim. The tenant applied for the return of the security deposit and for the recovery of the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issues to be decided

Is the landlord entitled to a monetary order for loss of income, cost of repairs and cleaning, the filing fee and to retain the security deposit?

Background and Evidence

The tenancy started on June 01, 2013 and ended on December 31, 2014 pursuant to a notice to end tenancy served by the landlord. The monthly rent was \$1,095.00 payable on the first of each month. Prior to moving in, the tenants paid a security deposit of \$547.50. A move out inspection was conducted by both parties and a report was filed into evidence. A move out inspection report was filed by the landlord even though the tenant had not participated in the inspection.

On November 27, 2014, the landlord served the tenant with a one month notice to end tenancy for cause. The tenant disputed the notice. Despite making application to cancel the notice to end tenancy, the tenant moved out on December 30, 2014.

On December 24, 2014, the landlord informed the tenant that she would conduct a move out inspection on December 31, 2014. On December 30, 2014 the tenant replied to the landlord letting her know that she would not be present for the move out inspection as she had already moved out and had conducted her own inspection. On January 07, 2014, the tenant provided the landlord with her forwarding address in writing.

The landlord testified that after the tenancy ended, she found that the tenant had left the unit in an unclean condition. The landlord filed photographs to support her testimony. The photographs indicate that the walls, cabinets, refrigerator and stove were not clean. The landlord stated that she cleaned the unit herself and it took her 14 hours to do so. The landlord is claiming \$280.00 for her time.

The landlord stated that the tenant had put pictures on the wall and when they were removed the paint came off too. The tenant was not sure of the method she used to put her pictures up but agreed that she may have used sticky tape to do so. The landlord testified that the unit was painted just prior to the start of tenancy in May 2013.

The landlord's witness testified that he repaired and painted the walls. He described the damage to the walls which confirmed that sticky tape may have been used to put pictures on the wall. The witness also testified that he cleaned out a drain which was clogged with hair, q tips, bobbi pins and a clay like substance resembling make up. The witness stated that the walls, sink and bath tub were stained with a purple substance that was probably hair dye. The tenant stated that the purple substance was shampoo. The landlord also claimed the cost of cleaning blinds and the painting of her own door which she states was damaged by the tenant.

The landlord made efforts to look for a tenant and found a tenant for January 07, 2015. The landlord is claiming the loss of income incurred for the first week of January.

The landlord is claiming the following:

1.	Cleaning	\$280.00
2.	Painting and Repairs	\$385.00
3.	Cleaning Blinds	\$40.00
4.	Painting of landlord's door	\$50.00
5.	Loss of income	\$212.50
6.	Filing fee	\$50.00
	Total	\$1,017.50

Analysis

Landlord's Application

1. Cleaning - \$280.00

Based on the photographs filed into evidence by the landlord, I find that the unit required cleaning after the tenant moved out. The landlord cleaned the unit herself and is claiming \$280.00 for her time. I find that the landlord is entitled to her claim.

2. Painting and repairs - \$385.00

The landlord is claiming \$300.00 for painting and \$85.00 for repair of the drain. The landlord has filed an invoice into evidence.

Section 40 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. I will use this guideline to assess the remainder of the useful life of the painting. As per this policy, the useful life of interior painting is four years. The landlord painted the unit in May 2013 and therefore by the end of the tenancy in December 2014, the painting had 29 months of useful life left. Accordingly, I find that the landlord is entitled to \$180.00 which is the prorated value of the remainder of the useful life of the painting.

The landlord's witness testified that he cleaned out the drain and found items that should not have been put down the drain. Therefore I find that the tenant is responsible for the cost of cleaning the drain. I award the landlord \$85.00.

3. Cleaning blinds - \$40.00

I have awarded the landlord \$280.00 for cleaning which will include blinds as well.

4. Painting of landlord's door - \$50.00

I have jurisdiction to award the landlord damage to the rental unit and not to her personal place of residence. The landlord is at liberty to file her claim in another court.

5. Loss of income - \$212.50

Section 5 of the *Residential Tenancy Policy Guideline* states that where a landlord gives a notice to end tenancy the landlord's obligation to re-rent the rental unit begins after the relevant dispute period set out in the *Residential Tenancy Act* has expired.

If the tenant files an application to dispute the notice, the landlord is not required to find a new tenant until the arbitration decision and order are received and the time limits for a review application has passed.

In this case, I find that the landlord served the tenant with a notice to end tenancy for cause on November 27, 2014. The tenant disputed the notice to end tenancy and then moved out on December 31, 2014. The landlord made efforts to find a tenant and was successful in finding a tenant for January 07, 2015 and therefore suffered a loss of income for the first week of January 2015. I find that the tenant is liable for this loss and accordingly I award the landlord her claim of \$212.50 for loss of income.

6. Filing fee - \$50.00

The landlord has proven her claim and is entitled to the recovery of the filing fee.

The landlord has established the following claim:

1.	Cleaning	\$280.00
2.	Painting and Repairs	\$265.00
3.	Cleaning Blinds	\$0.00
4.	Painting of landlord's door	\$0.00
5.	Loss of income	\$212.50
6.	Filing fee	\$50.00
	Total	\$807.50

Tenant's Application:

Section 38(1) of the Act provides that the landlord must return the security deposit or apply for dispute resolution within 15 days after the later of the end of the tenancy and the date the forwarding address is received in writing. If the landlord fails to repay the security deposit or make an application for dispute resolution within 15 days of receiving the tenant's forwarding address, the landlord is liable under section 38(6), which provides that the landlord must pay the tenant double the amount of the deposit.

In this case, the tenant provided the landlord with her forwarding address on January 07, 2015. The landlord filed this application on January 22, 2015 which is within the legislated time frame of 15 days. Therefore the tenant is not entitled to the return of double the security deposit but is entitled to the return of the base amount of \$547.50.

Since the tenant has not proven her case, she must bear the cost of filing her application.

The landlord has established a claim of \$807.50 while the tenant has established a claim of \$547.50. I will use the offsetting provisions of section 72 of the *Act* to grant the landlord a monetary order in the amount of \$260.00 which consists of the difference between the established claims of both parties.

I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order in the amount of **\$260.00**.

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 28, 2015

Residential Tenancy Branch

