



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order authorizing her to retain the security deposit. Both parties participated in the conference call hearing with the tenant PW representing both tenants.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The facts are not in dispute. The tenancy began on April 1, 2013 and ended on March 15, 2015. Rent was set at \$1,550.00 per month and the tenants paid a \$775.00 security deposit at the outset of the tenancy.

The tenants did not pay \$200.00 of the rent due in the month of March. PW testified that they withheld that amount from the rent because they were unable to use the basement for a period of time and they believed \$200.00 would provide adequate compensation for loss of use of that part of the property.

The parties agreed that the tenants owed \$820.49 for utilities at the end of the tenancy.

In January 2015, a toilet on the upper floor of the rental unit became plugged. PW testified that she thought she had successfully unplugged the toilet and went to bed. At 11:30 p.m., PW's son awoke PW to advise that water was leaking into the basement. PW shut off the water to the toilet at that time and telephoned the landlord the following morning. The landlord and her husband attended at the property and her husband was able to unplug the toilet. The water had run through the venting system into the downstairs area causing damage as a result. The landlord hired a restoration company

to perform repairs and seeks to recover the \$1,000.00 insurance deductible from the tenants.

The parties agreed that in October 2013, the tenants overloaded the stacking washing machine and that it malfunctioned as a result. They then placed the clothes in the dryer and because excess water had not been extracted, the dryer was damaged. The tenants advised the landlord of the issue and she advised that she could either afford to repair the eavestroughs as she had planned to do that month or she could repair the washer and dryer. The tenants said they would bring their own washer and dryer to use and suggested that the landlord proceed with the eavestrough repair. The tenants used their own washer and dryer throughout the remainder of the tenancy.

At the end of the tenancy, the tenants offered to leave the washer and dryer at the rental unit, but the landlord refused their offer as she wanted a stacking washer and dryer that would fit into the laundry room. The landlord paid \$94.95 to repair the dryer and as the washing machine was unable to be repaired, the landlord replaced it at a cost of \$300.00. The landlord seeks to recover the cost of the dryer repair and \$200.00 of the cost of replacing the washing machine. The tenants maintained that they should not be held responsible for these costs as they offered their machines to the landlord in replacement.

The landlord also seeks to recover the \$50.00 filing fee paid to bring her application.

Analysis

As the parties agree that the tenants owe \$200.00 in rent and \$820.40 for utilities, I award the landlord \$1,020.40. The tenants are not entitled to withhold monies from their rent because they are of the opinion that they are not receiving the full value of their rent. The tenants' recourse in such a situation is to file an application for dispute resolution seeking a monetary award or an order reducing their rent.

The tenants offered no evidence to show that the toilet was plugged because it was malfunctioning, but appear to agree that they caused the toilet to be plugged, albeit inadvertently. In the absence of a default with the toilet, I find that the tenants are responsible for the plugged toilet and although they believed they had solved the problem prior to going to bed on the night of the leak, it is clear that they were incorrect. While the tenants did not intend for the damage to occur and believed that they had unclogged the toilet, I find that they are liable for the damage and I award the landlord \$1,000.00.

The tenants had an obligation to leave the rental unit and its appliances in undamaged condition except for reasonable wear and tear. The tenants acknowledged that it was their actions that caused the damage to the washer and dryer and while their offer to permit the landlord to use their appliances was generous, the landlord was under no obligation to accept that offer and had the right to repair or replace her machines. I find that the tenants must be held liable for the \$94.95 cost of repairing the dryer and I find the landlord's reduced claim for the cost of replacing the washing machine to be reasonable and find that the tenants are also responsible for that \$200.00 cost. I award the landlord \$294.95.

As the landlord has been successful in her application, I find she should recover the \$50.00 cost of her filing fee and I award her \$50.00.

The landlord has been awarded a total of \$2,365.35 which represents \$1,020.40 for rent and utilities, \$1,000.00 for the insurance deductible, \$294.95 for the appliance repairs and \$50.00 for the filing fee. I order the landlord to retain the \$775.00 security deposit in partial satisfaction of the claim and I grant her a monetary order under section 67 for the balance of \$1,590.35. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order for \$1,590.35 and will retain the security deposit.

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: September 09, 2015

Residential Tenancy Branch

