



# Dispute Resolution Services

Page: 1

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 permitting retention of the security deposit in partial satisfaction of the claim. The landlord appeared; the tenants did not.

The landlord testified that she served the application for dispute resolution and notice of hearing on each of the tenants, together with her evidence package, by registered mail sent to the forwarding address provided by the tenants. She testified that the post office told her the packages could not be sent "double registered", referring to the method by which the signature of the recipient is obtained, because of the size of the packages. However, the items were not returned and she did receipt a confirmation from the post office that the packages had been delivered.

Based on her testimony I am satisfied that the documents, although not served in accordance with s.89(1) have been sufficiently served for the purposes of the *Residential Tenancy Act* and I so order pursuant to sections 71(2)(b) & (c).

### Issue(s) to be Decided

Is the landlord entitled to a monetary order and, if so, in what amount?

### Background and Evidence

This tenancy started as a one year fixed term tenancy. Although the term commenced July 1, 2014, the tenants moved into the rental unit on June 14. The monthly rent, which was due on the first day of the month, was \$1500.00 but the tenants were given a credit of \$200.00 per month for taking care of the yard. The tenants paid a security deposit of \$650.00.

A move-in inspection was conducted and a move-in condition inspection report completed on June 14.

The tenancy ended by mutual agreement on May 31, 2015. A move out inspection was conducted and a move-out condition inspection report was completed on May 31, 2015. The tenants signed the condition inspection report with a note that they did not agree with the deficiencies noted by the landlord.

The tenants provided their forwarding address on the move-out condition inspection report. The landlord filed this application for dispute resolution on June 12, 2015.

At the move-out inspection the tenants signed an undertaking to pay arrears of rent, late fees and hydro charges in the total amount of \$778.41.

The landlord testified about the condition of the unit at the end of the tenancy and filed photographs of the unit. She claims as follows:

- *Cleaning* – She gave the incoming tenant a credit of \$200.00 for cleaning, calculated at 10 hours at \$20.00/hour.
- *Light Bulbs* – Numerous light bulbs were burned out. The cost of replacing light bulbs was \$47.78.
- *Carbon Monoxide Detector* – The detector was missing. The replacement cost is \$40.59.
- *Lawn Mowing* – The tenants left the yard unmown and overgrown. The landlord paid \$50.00 to have the yard mowed.
- *Garbage Removal* – Although the landlord had estimated this cost at \$200.00 when she filed this claim she actually spent \$310.00.
- *Wall Repairs and Painting* – The landlord testified that the whole house was gutted and remodelled in 2009. This was the last time the unit had been painted. The landlord testified that the tenants damaged at least one wall in each room. The photographs show holes that are not overly large but are more than nail holes. The hallway walls have marks which the tenants told the landlord was caused by a Magic Eraser. The tenants had applied filler to the holes but had not sanded all of them. In some spots the tenants had over sanded, so the area had to be refilled and sanded. None of the patches had been painted. One of the new tenants is a professional painter and he is slowly re-painting the house. He gave the landlord an estimate for labour only of 40 hours at \$25.00/hour. The landlord makes no claim for materials or applicable taxes. She testified that about one third of the painter's time has been spent on repairing the walls.
- *Vinyl Siding* – Some of the vinyl siding, which was installed in December 2009, was damaged. The landlord had some extra siding on hand so the patched areas match the existing walls. She claims for labour only, including applicable taxes, in the amount of \$390.00.

### Analysis

The tenants accepted responsibility, in writing, for the arrears of rent, late fees and hydro charges in the amount of \$778.41.

The obligations of a landlord and a tenant for repairs and maintenance are set out in *Residential Tenancy Policy Guideline 1: Landlord & Tenant – Responsibility for Residential Premises*.

After looking at the photographs I am satisfied that the tenants did not leave the unit in the condition set out in the *Guideline*. The estimate for the time required to clean is reasonable, as is the hourly rate quoted. The landlord's claim of \$200.00 for cleaning is allowed.

The *Guideline* sets out that a tenant is responsible for replacing light bulbs in the unit during their tenancy. Accordingly, I find that the tenants are responsible for the cost of replacing lightbulbs in the amount of \$47.48.

I also find that the tenants are responsible for the cost of replacing the carbon monoxide detector in the amount of \$40.59.

Not only does the *Guideline* set out that a tenant who lives in a single-family dwelling is responsible for grass cutting, the tenants had specifically undertaken to do this work in return for a rent reduction. I find that the tenants are responsible for the \$50.00 cost of lawn cutting.

Tenants are required to remove all of their possessions at the end of a tenancy. Accordingly, the tenants are responsible for the actual cost of clean-up, \$310.00.

With regard to the claims for wall repairs, painting and siding repairs, like any claim for damage or loss the party making the claim, in this case the landlord, must prove on a balance of probabilities:

- that the damage or loss exists;
- that the damage or loss is attributable solely to the actions or inaction of the other party; and,
- the genuine monetary costs associated with rectifying the damage.

In a claim by a landlord for damage to property, the normal measure is the cost of repairs or replacement cost (less an allowance for depreciation), whichever is lesser. The Residential Tenancy Branch has developed a schedule for the expected life of fixtures and finishes in rental units. This depreciation schedule is published in *Residential Tenancy Branch Guideline 40: Useful Life of Building Elements* and is available on-line at the Residential Tenancy Branch web site.

*Guideline 1* sets out that a tenant is responsible for repairing holes where an excessive number of nail holes, or large nails, or screws and tape, have been used and left wall damage. Further, a tenant is responsible for all deliberate or negligent damage to the walls.

I am satisfied that the damage to the walls is more than small nail holes. *Guideline 40* states that the expected useful life of interior paint is four years. Because the unit was painted more

than four years ago I cannot allow anything for repainting. I can award the landlord the approximate cost of repairing the walls before they are painted. Accordingly, I award the landlord \$355.00 for wall repairs ( $1/3 \times \$1000.00$ ).

The expected useful life of vinyl siding is 25 years. This siding was installed in December 2009 so was 4 ½ years old at the end of this tenancy. Normally a depreciation rate of 18% would be applied to this claim. However, in this case, the landlord is claiming for labour only, not the materials which she already had on hand even though she is legally entitled to do so. Accordingly, I award the landlord the full cost of the labour for the repair, \$390.00.

Finally as the landlord was successful on her application she is entitled to reimbursement from the tenants of the \$50.00 fee she paid to file it.

#### Conclusion

In conclusion I find that the landlord has established a total monetary claim of \$2001.78, as set out above. Pursuant to section 72 I order that the landlord retain the deposit of \$650.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1351.78. If necessary, this order may be filed in the Small Claims 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: September 23, 2015

---

Residential Tenancy Branch

