



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR, MND, MNDC, MNSD, FF

Introduction

This hearing concerns the landlord's application for a monetary order as compensation for unpaid rent / compensation for damage to the unit, site or property / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit and pet damage deposit / and recovery of the filing fee.

Both parties attended and gave affirmed testimony. The tenants' affirmed testimony was provided mainly by way of legal counsel who also attended the hearing.

Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the tenancy began July 01, 2013. Monthly rent was due and payable in advance on the first day of each month. While monthly rent was \$900.00 at the outset of tenancy, it was subsequently increased to \$920.00 effective from March 01, 2015. A security deposit of \$450.00 and a pet damage deposit of \$450.00 were collected. A move-in condition inspection report was completed with the participation of both parties.

By email dated May 01, 2015 the tenants gave 1 month notice to end tenancy. Thereafter, on or about May 13, 2015 the landlord attended in order to inspect the unit. The landlord informed the tenants that she would return to the unit on May 18, 2015. By email dated May 17, 2015, the tenants informed the landlord that they were "able to move out sooner so the house i[s] now empty." When the landlord attended the unit on May 18, 2015, she found that the tenants had indeed already vacated. As the landlord had earlier been informed by the tenants of their intention to vacate the unit at the end of May 2015, the landlord testified that she had made arrangements for contractors to commence repairs on June 01, 2015.

A move-out condition inspection report was completed with the participation of both parties. The move-out condition inspection report documents that the inspection was undertaken on May 21, 2015. The tenants provided their forwarding address on the report. The landlord testified that she commenced advertising for new renters in May, and that new renters were found effective from July 01, 2015.

The landlord's application for dispute resolution was filed on May 29, 2015. Following this the landlord submitted an amended application on October 09, 2015, including a revised "monetary order worksheet," which reflects an increase in the amount of compensation originally sought. During the hearing the parties undertook to resolve certain aspects of the landlord's application.

Analysis

Based on the documentary evidence and the affirmed testimony of the parties, the various aspects of the landlord's claim and my related findings are set out below.

\$53.13: advertising for new renters

The tenants gave notice to end tenancy. The dispute around whether the notice was given in accordance with the applicable statutory provisions is addressed later in this decision. In any event, I am unable to conclude that the landlord's cost of advertising for new renters ought fairly to be borne by the tenants. Rather, I consider that this is a cost of doing business. In the result, this aspect of the claim is hereby dismissed.

\$200.00: cleaning within the unit

Section 37 of the Act addresses **Leaving the rental unit at the end of a tenancy**, in part:

37(2) When a tenant vacates a rental unit, the tenant must

- (a) leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and.....

The tenants testified that the unit had not been adequately cleaned by the previous renters at the time when they themselves took possession. They also testified that they undertook to properly clean the unit by the end of their tenancy. While I note that the move-out condition inspection report documents that certain very limited areas within the unit are "unclean" or "dirty," I also note that the move-in condition inspection report documents that several areas within the unit are "dirty." On balance, I find there is insufficient evidence that the tenants failed to leave the unit "reasonably clean" by the end of tenancy. This aspect of the application must therefore be dismissed.

\$14.75: cleaning products

Following directly from the reasons set out immediately above, I find that this aspect of the application must also be dismissed.

\$210.48: estimate for replacement of damaged and missing blinds

The landlord testified that the blinds within the unit were approximately 3 years old at the time when the subject tenancy began. The landlord also testified that no costs have presently been incurred with regard to this aspect of the claim. I note that the move-out condition inspection report reflects variously that certain blinds are either "broken" or "missing," whereas there is no documentation of note on the move-in condition inspection report concerning the blinds. I find on a balance of probabilities that the tenants are responsible for damage to, and / or loss of blinds which is beyond "reasonable wear and tear," and that the landlord has established entitlement limited to **\$50.00**.

\$271.68: *paint for repairs to damaged walls*

During the hearing the parties agreed that this aspect of the claim is resolved to the full satisfaction of both parties pursuant to the tenants' acknowledgement of responsibility for costs in the limited amount of **\$135.84**, which is half the amount claimed.

\$27.06: *replacement tap / deck screws*

In the absence of any clear documentation in regard to this aspect of the claim on the move-out condition inspection report, I find that it must be dismissed.

\$25.77: *replacement decking*

During the hearing the tenants testified that they do not dispute this aspect of the landlord's claim. Accordingly, I find that the landlord has established entitlement to the full amount claimed.

\$43.63: *replacement door shelf / retainer bar*

During the hearing the tenants testified that they do not dispute this aspect of the landlord's claim. Accordingly, I find that the landlord has established entitlement to the full amount claimed.

\$1,470.00: *labour and materials related to miscellaneous repairs*

I find that the comparative results of the move-in and move-out condition inspection reports serve in a limited way to support to this aspect of the claim. However, I also find that the statement of costs provided to the landlord by the "handyman" is not accompanied by detailed receipts, and there is no confirmation before me of payment made by the landlord for the total amount claimed, such as a receipt or other conclusive notation. In the result, and in consideration of the wear and tear expected in a tenancy lasting nearly 2 years, I find on a balance of probabilities that the landlord has established a claim in the limited amount of **\$375.00**.

\$720.00: removal of log and other material & repairs to barn (labour and materials)

I note that damage to the barn is documented on the move-out condition inspection report. However, I find there is insufficient evidence of related costs for materials, such as would be provided by receipts. Further, it is not sufficiently clear that the need to remove certain materials from the property arose exclusively from this particular tenancy. I find on a balance of probabilities that the tenants were responsible for some damage to the barn, and in this regard I find that the landlord has established entitlement limited to **\$250.00**.

\$315.00: gutter repairs

In the absence of any clear documentation in regard to this aspect of the claim on the move-out condition inspection report, I find that it must be dismissed.

\$360.00: restoring grounds & removal of pet waste

\$300.00: weed removal and removal of related debris

Residential Tenancy Policy Guideline # 1 speaks broadly to "Landlord & Tenant – Responsibility for Residential Premises," and more specifically to the respective responsibilities of the parties under the headings PROPERTY MAINTENANCE and GARBAGE REMOVAL AND PET WASTE.

I find that the above aspects of the claim are not clearly addressed on the move-out condition inspection report. Further, I note that neither claim for compensation is included in the landlord's original application. Nevertheless, I note that the landlord has addressed her concerns with the tenants about the condition of the grounds in other ways during the tenancy. Further, I note that the property is rural in nature as opposed to being located within a suburban neighbourhood. On balance, I find that the landlord has generally applied a higher standard when assessing the condition of the grounds at the end of tenancy, compared to the standard that was applied at the time when tenancy began. In the result, I find that the landlord has established entitlement to compensation in the nominal and limited amount of **\$100.00**.

\$920.00: loss of rental income for June 2015

Section 45 of the Act addresses **Tenant's notice**, in part:

45(1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

- (a) is not earlier than one month after the date the landlord receives the notice, and
- (b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

During the hearing the tenants acknowledged that as notice to end tenancy effective May 31, 2015 was not strictly given in accordance with the above statutory provisions, they do not dispute this aspect of the landlord's claim. In the result, I find that the landlord has established entitlement to the full amount claimed.

\$50.00: *filing fee*

As the landlord has achieved a measure of success with the principal aspects of the application, I find that the landlord has also established entitlement to recovery of the filing fee.

Total entitlement: \$1,950.24

I order that the landlord retain the security deposit of \$450.00 and the pet damage deposit of \$450.00 [**total: \$900.00**] and I grant the landlord a **monetary order** for the balance owed of **\$1,050.24** (\$1,950.24 - \$900.00).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$1,050.24**. Should it be necessary, this order may be served on the tenants, 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: November 04, 2015

Residential Tenancy Branch

