



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, MNDC, MND, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords filed under the Residential Tenancy Act (the “Act”), for a monetary order for unpaid utilities, for damages to the unit and for an order to retain the security deposit in partial satisfaction of the claim.

The landlords attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlords testified that both tenants were served the Application for Dispute Resolution and Notice of Hearing by registered mail as they sent one package for both of the tenants. The landlords confirmed that the male tenant JD, signed for the package. A Canada post tracking history was provided as evidence of service.

In this case, the landlords did not serve each of the respondents under separate cover. As a result I am not satisfied the tenant KN, was sufficiently served. However, I am satisfied the tenant JD was served as their signature is on the Canada post track history.

The landlords were given the opportunity to withdraw their application if they wanted to proceed against both tenants; however the landlords were satisfied to proceed against the tenant JD. Therefore, the style of cause was amended to remove KN.

The landlords appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Are the landlords entitled to a monetary order for utilities?

Are the landlords entitled to monetary compensation for damages?

Are the landlords entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began April 2013. Rent in the amount of \$2,000.00 was payable on the first of each month. The tenants paid a security deposit of \$1,000.00 and a pet damage deposit of \$825.00 (the "Deposits"). The tenancy ended on July 31, 2014.

A move-in condition inspection report was completed. The landlords stated the tenants attended the move-out inspection; however, they got upset and left.

The landlords claim as follows:

a.	Cost of oil fuel	\$1,500.00
b.	Rekeying the locks	\$ 71.09
c.	Wall repair	\$ 400.00
d.	Blind replacement	\$ 439.00
e.	Light and battery replacement	\$ 129.00
f.	Carpet cleaning	\$ 89.00
g.	Cleaning	\$ 532.00
h.	Garbage removal	\$ 75.00
i.	Misc. damage	\$ 386.00
j.	Filing fee	\$ 50.00
	Total claimed	\$3,671.09

Cost of oil fuel

The landlords testified that the tenants were provided with a full tank of oil at the start of the tenancy. The landlords stated that the tenants did not replace the oil at the end of the tenancy. The landlords seek to recover the estimated cost of fuel in the amount of \$1,500.00.

Filed in evidence is a receipt for oil purchased the day prior to the tenancy commencing, which supports the oil tank was full at the start of the tenancy. Filed in evidence is an estimate from the oil company to support the cost to replace the oil.

Rekeying the locks

The landlords testified that the tenants did not return the key at the end of the tenancy. The landlords stated in order to mitigate their loss they took the existing locks off the doors and had them rekeyed at the local hardware store. The landlords stated that it took them 2 hours to remove the locks, have them rekey and then reinstalled. The landlords seek to recover the amount of \$50.00 for their labour and \$21.09 they paid to have the locks rekeyed in the total amount of \$71.09. Filed in evidence is a which support the landlords testimony.

Wall repair

The landlords testified that the tenants allowed their children to colour on the walls. The landlords stated that two of the bedrooms walls were made from wood as this was a log cabin. The landlords stated that the wood had to be sanded and then re-stained. The landlords stated that other areas of the walls had to be painted to cover-up areas where the children coloured on the walls.

The landlords testified that to repair the wood walls it took them 16 hours. The landlords stated to paint the other walls it took them 8 hours; however, they seek only to recover 4 hours of the 8 hours of labour as they considered some wear and tear, although the rental unit was freshly painted at the start of the tenancy. The landlords seek to recover a total of 20 hours at the rate of \$20.00 per hour for a total amount of \$400.00.

Filed in evidence are photographs of the wood walls, which shows the walls coloured on from by what appears to be markers. Filed in evidence are photographs of the other walls, which show the walls coloured on from what appears to be crayon.

Blind replacement

The landlords testified that the tenants caused damage to the blinds, which were new at the start of the tenancy. The landlords stated the patio door vertical blinds were missing slats, the dining room blind was broken, the kitchen blind was cracked/ripped and four bedroom blinds were broken. The landlords seek to recover the cost to replace the blinds in the amount of \$363.57, plus \$75.00 for their labour, in the total amount of \$439.00.

Light and battery replacement

The landlords testified that the tenants did not replace the lightbulbs during their tenancy and there were 19 lights burnout. The landlords stated that the batteries from smoke detector were also removed. The landlords stated that the cost to replace the bulbs and the batteries were \$85.33 and they averaged 5 minutes per bulb for labour which is \$39.38. The landlords seek to recover the total amount of \$129.00.

Carpet cleaning

The landlords testified that the tenants failed to clean the carpets at the end of the tenancy. The landlords seek to recover the cost they paid to have them cleaned in the amount of \$89.00. Filed in evidence is a receipt for carpet cleaning.

Cleaning

The landlords testified that the tenants left the rental unit completely filthy which the rental unit is 2,400 square feet. The landlords stated that there was food in the kitchen, all the appliances need to be cleaned, and the floors were very sticky. The landlords stated that it took them 26.6 hours to clean the rental premises and seek compensation at the rate of \$20.00 per hour, in the total amount of \$532.00. Filed in evidence is a detailed list of the cleaning. Filed in evidence are photographs of the interior and exterior of the rental unit, which support the rental property was not left reasonably clean.

Garbage removal

The landlords testified that it took them two hours to gather up all the garbage and take it to the dump for disposal. The landlords seek \$50.00 for labour, \$5.00 for gas, and \$20.00 for the disposal fee. The landlords seek to recover the total amount of \$75.00. Filed in evidence are photographs of garbage and miscellaneous items that left behind which support the landlords testimony.

Misc. damage

The landlords testified that the tenants caused other miscellaneous damage to the rental unit:

- The master closet shelving system was removed, which took them two hours to re-install;
- The living room screen was ripped, which took them 1 hour to make the repair and the parts were \$16.80;
- The fireplace door had 4 panels of missing glass, which took them 2.5 to make the repair and the parts cost \$58.24;
- The bachelor suite bathroom doorknob was missing, which took them 30 minutes to repair and the part cost \$16.00;
- The insinkerator instant hot water dispenser was broken, which took them 2 hours to repair and the parts were \$52.20; and
- There were five electrical switch plates broken, which took them 30 minutes to repair and the parts were \$4.98.

The landlords seek to recover a total of 9.5 hours for labour at the rate of \$25.00 (\$237.50) and total parts (\$148.23) for a total of \$385.73. Filed in evidence are photographs, receipts and a detailed calculation of labour.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlords have the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

How to leave the rental unit at the end of the tenancy is defined in Part 2 of the Act.

Leaving the rental unit at the end of a tenancy

37 (2) When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear.

Normal wear and tear does not constitute damage. Normal wear and tear refers to the natural deterioration of an item due to reasonable use and the aging process. A tenant is responsible for damage they may cause by their actions or neglect including actions of their guests or pets.

Cost of oil fuel

Under the Residential Tenancy Policy Guideline 1, which clarifies the rights and responsibilities of the parties for the premises under the Act, the tenant must leave the oil tank in the same condition that it was in at start of the tenancy.

In this case, I accept the landlords evidence that the oil tank was full at the start of the tenancy. This is support by the receipt filed in evidence. I further accept the undisputed testimony of the landlords that the oil tank was left empty at the end of the tenancy. I find the tenant breached the Act, when they failed to leave the oil tank full at the end of the tenancy and this caused losses to the landlord. Therefore, I find the landlords are entitled to recover the cost of the oil in the estimated amount of **\$1,500.00**.

Rekeying the locks

At the end of the tenancy the tenant must return to the landlords all keys, including those they had cut at their own expense.

I accept the undisputed evidence of the landlords that the tenants did not return the keys at the end of the tenancy. I find the tenant breached the Act, when they failed to return the keys to the landlords and this caused losses to the landlord.

In this case, the landlords removed the locks and took them into be rekeyed. I find that reasonable, rather than to have a locksmith attend which would likely increase the cost significantly. Therefore, I find the landlords are entitled to recover their time and the cost to have the locks rekeyed in the total amount of **\$71.09**.

Wall repairs

I accept the landlords testimony that the tenants caused damage to the walls, by allowing their children to use the walls to colour on. This is supported by photographic evidence. I find the tenant action is neglectful. I find the tenant breached the Act, when they failed to repair the damage and this caused losses to the landlords. I find the amount that the landlords claimed based on photographs reasonable. Therefore, I find the landlords are entitled to recover the cost to repair the walls in the amount of **\$400.00**.

Blind replacement

I accept the undisputed evidence of the landlords that the tenant caused damage to the blinds, which were new at the start of the tenancy. I find the tenant has breached section 37(2) of the Act, when they failed to repair the blinds at the end of the tenancy and this caused losses to the landlord.

The Residential Tenancy Policy Guideline 40 defines the useful life of building elements. If the tenant damaged an item, the age of the item may be considered when calculating the tenant's responsibility for the cost of replacement.

I have determined based on the guideline that the blinds had a useful life span of 10 years. The blinds were 15 months old at the time of replacement. I find the landlords are entitled to the depreciated value of 87.5 percent.

The evidence of the landlords was it cost \$439.00 to replace the blinds, which is supported by a receipt. Therefore, I find the landlords are entitled to compensation for the cost of replacing the blinds in the amount of **\$384.12**.

Light and battery replacement

Under the Residential Tenancy Policy Guideline 1, the tenant is expected to replace the light bulbs during their tenancy.

In this case 19 light bulbs were burnt-out at the end of the tenancy, which support the tenant did not replace the light bulbs during their tenancy. I find the tenant breached the Act, when they failed to replace the light bulbs and this caused losses to the landlord. Therefore, I find the landlords are entitled to recover labour and materials in the amount of **\$124.91**.

Although I accept the landlords evidence that the battery was missing from the smoke detector, however, the replacement of batteries and regular maintenance of the smoke detectors is the landlords responsibility under the Residential Tenancy Policy Guideline 1, and there is no way for me to determine if the battery was removed because it was no longer working. Therefore, I dismiss this portion of the landlords claim.

Carpet cleaning

Under the Residential Tenancy Policy Guideline 1, the tenants are expected to clean the carpets if the tenancy exceeds one year. I find the tenant breached the Act, when they failed to have the carpets cleaned at the end of the tenancy as their tenancy exceeded one year. Therefore, I find the landlords are entitled to recover the cost of carpet cleaning in the amount of **\$89.00**.

Cleaning

I accept the landlords testimony that the tenants did not leave the rental unit reasonable clean. The photographs submitted in evidence support this. I find the tenant breached the Act and the landlords suffered a loss.

I further find the amount claimed by the landlords for cleaning reasonable based on the square foot and the photographs of the interior and exterior of the rental premises. Therefore, I find the landlords are entitled to recover the amount of **\$532.00**.

Garbage removal

I accept the landlords testimony that the tenants left a lot of garbage and other items throughout the rental premises. This is supported by photographs. I find the tenant breached the Act, when they failed to remove garbage and other items from the property and this caused losses to the landlord. I find the amount claimed is reasonable. Therefore, I find the landlords are entitled to recover the cost of garbage removal in the amount of **\$75.00**.

Misc. damage

I accept the landlords testimony that the tenants caused miscellaneous damage as described in their testimony. The move-in condition inspection shows these items in satisfactory condition at the start of the tenancy. The photographs support the landlords testimony of damage caused. I find the tenant breached the Act, when they failed to make the repairs at the end of the tenancy and this caused losses to the landlords. Therefore, I find the landlords are entitled to recover the labour and repairs in the total amount of **\$386.00**.

I find that the landlords have established a total monetary claim of **\$3,612.12** comprised of the above described amounts and the \$50.00 fee paid for this application.

I order that the landlords retain the Deposit of **\$1,825.00** in partial satisfaction of the claim and I grant the landlords an order under section 67 of the Act for the balance due of **\$1,787.12**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlords are granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlords are granted a formal order for the balance due.

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: January 5, 2016

Residential Tenancy Branch

