



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, MNR, MNDC, MNSD, FF

### Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent - Section 67;
2. A Monetary Order for damage to the unit - Section 67;
3. A Monetary Order for compensation - Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

The Tenants did not attend the hearing. I accept the Landlord’s evidence that each Tenant was served with the application for dispute resolution and notice of hearing (the “Materials”) by registered mail in accordance with Section 89 of the Act. Postal evidence indicates that the Tenants refused the mail. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenants are deemed to have received the Materials regardless of them not collecting the mail.

The Landlords were given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy started on July 1, 2015 for a fixed term to end June 30, 2016. Rent of \$2,100.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$1,050.00 as a security deposit. The Parties mutually conducted a move-in inspection with report completed and copy provided to the Tenant.

On April 26, 2016 the Tenant notified the Landlords that the tenancy would end on May 1, 2016. On May 1, 2016 the Tenant had not returned the keys and still had belongings in the unit. The Tenant informed the Landlord that the move-out was unfinished and agreed to be completed and to conduct a move-out inspection by the upcoming week-end. The Tenant did not show up at the unit on the week-end and following several additional offers by the Landlord failed to attend any move-out inspection. No keys were ever returned and the Landlords changed the locks to the unit on May 16, 2016 after completing the move-out condition inspection and report. The Tenant failed to leave the original garage door opener and the substituted ones did not operate. Items and furnishings were left in the unit by the Tenant. The Tenant never provided a forwarding address. The Landlord searched and found the Tenants' residence.

The Landlord claims the costs of replacing the front door lock of \$189.28 and the garage door opener of \$134.38.

After advertising the unit commencing April 26, 2016 on several internet sites for immediate occupancy and at the same rental rate, a new tenant was found for July 1, 2016. The Tenant had paid no rent for May or June 2016 and the Landlord claims \$4,200.00.

Water was not included with the rent and the Tenant failed to pay the water costs for the period July 2015 to May 24, 2016. The Landlord provides the bills for this period and claims \$63.93 + 83.79 + 210.36 for a total of \$358.08.

The Tenant disconnected the hydro effective May 1, 2016 and the Landlord claims the costs of hydro for May and June 2016.

The Tenant failed to leave the unit clean and the Landlord used its own labour to complete the cleaning of the unit. The Landlord claims a total amount of \$271.47 for various cleaning and other supplies. The Landlord did not itemize the claim and only provided a number of receipts that add up to the amount claimed, one of which included candies. The Tenant left garbage in the unit and the Landlord claims the cleaning and dump fees of \$30.20. The unit included a fireplace and pellet stove that was used by the Tenant. The Landlord claims the cost of cleaning and servicing the chimney and pellet stove. The Tenant left the interior windows unclean and the Landlord claims the costs of cleaning both the interior and exterior windows. The Landlord provides an invoice indicating that the cleaning costs for the interior windows were \$140.00.

The Tenant damaged the shower handle that was new in June 2015 and apparently tried to repair the item itself but still leaving it damaged. The Landlord claims \$122.85 as the costs for labour and \$60.85 for the costs of supplies to repair the handle. The Tenant damaged the smoke detectors by disconnecting and tampering with the electrical connections and the Landlord claims \$200.56 for the repairs. The Tenant damaged a floor grate and the Landlord claims \$30.46 for its replacement. The Tenant left the master bedroom walls with large scrapes and holes and other damage in the master bathroom and kitchen ceiling. The unit was last painted in 2014. The Landlord claims the costs of paint supplies in the amount of \$123.22. The Tenant left a broken front entrance light and the Landlord claims \$22.47. The Tenant drove over and parked on the front lawn leaving it damaged beyond wear and tear and the Landlord claims the costs of seed and soil supplies in the amounts of \$60.48 and 222.93. The Tenant failed to properly clean the bathroom tub and surround and the Landlord claims the

costs of supplies in the amount of \$39.03 to repair the silicone sealant that was left darkened. The bathroom tub and surround and tiles were completely renovated in June 2015. The Tenant left the linoleum that was new in June 2015 with a deep gouge that could not be repaired by the Landlord. The Landlord claims the replacement cost of new linoleum in the amount of \$1,347.44. The Tenant left the screen door screens and holding mechanism damages. The doors are between 20 and 30 years old. The Landlord claims \$39.20 for the repairs. The Landlord provides photos in addition to the condition inspection reports. The Landlord provides invoices for these costs

The Landlord claims legal costs and provides an invoice for membership dues to a landlord association. The Landlord claims costs of a rental lawn sign, adverting and credit checks. The Landlord claims the cost of registered mail to the Tenant.

### Analysis

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. This section further provides that where a landlord or tenant claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement the claiming party must do whatever is reasonable to minimize the damage or loss. Section 45 of the Act provides that a tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than the date specified in the tenancy agreement as the end of the tenancy. As the Tenant could not give notice to end the tenancy for May 1, 2016 the Tenant was liable for rent to the end of the term. As the Landlord advertised the unit immediately I find that the Landlord acted reasonably to mitigate its lost rent for the months of May and June 2016. As a result I find that the Landlord has substantiated an entitlement to **\$4,200.00**. Based on the undisputed evidence of the Landlord and considering the tenancy agreement requiring the Tenant to pay for the water, I find that the Landlord has substantiated its claim for **\$358.08**.

As the Landlord changed the locks to the unit on May 16, 2016 I find that the tenancy ended. As nothing requires the Tenant to continue provide its own hydro to the unit after the tenancy ends I dismiss the claim for hydro costs. As the Tenant failed to return the keys or the correct garage door openers I find that the Landlord is entitled to the claimed amount of **\$189.28** and **\$134.38**.

Section 37 of the Act provides that when a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the residential property. RTB Guideline #1 provides that a landlord is responsible for such things as chimney cleaning and servicing of furnaces and other appliances and cleaning exterior windows. As the Tenant is not responsible for cleaning and servicing the chimney and pellet stove I dismiss the claims for these costs. As the Tenant is not responsible for leaving the exterior windows cleaned I find that the Landlord is only entitled to the costs for cleaning the interior windows in the amount of **\$140.00**.

As the Landlord included candy in the un-itemized claims for supplies but accepting that the unit was left unclean I find that the Landlord has only substantiated a nominal amount of **\$50.00** for cleaning supplies.

Based on the undisputed and supported evidence of damage to the shower handles, smoke detectors, floor grate, walls, entrance light, lawn, bathroom, and linoleum I find that the Landlord has substantiated the costs of **\$2,230.29**. Given the age of the screen doors I find that they no longer had any useful life and I dismiss the claim for their repairs.

As membership dues in a landlord association, advertising costs and credit checks are part of the costs and related to the obligations of the Landlord in carrying out its business, I find that the Landlord has not substantiated that the Tenant caused these costs and I dismiss these claims.

As the costs of participating in the dispute process, such as service costs for registered mail, are not provided for under the Act that only allows for the recovery of the filing fee, I dismiss the claims for these costs and find that the Landlord is entitled to recovery of the **\$100.00** filing fee. The total entitlement for the Landlord including the filing fee is **\$7,402.02**. Deducting the security deposit plus zero interest of **\$1,050.00** leaves **\$6,352.02** owed by the Tenant to the Landlord.

#### Conclusion

I Order the Landlord to retain the security deposit plus interest of \$1,050.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining amount of **\$6,352.02**. 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: January 20, 2017

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Residential Tenancy Branch