



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNSD MNDC FF

Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The landlord and the tenant participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on June 1, 2015. At the beginning of the tenancy, the tenant paid the landlord a security deposit of \$600.00. The landlord did not carry out a move-in inspection or complete a condition inspection report with the tenant at the beginning of the tenancy.

The tenancy ended on or about July 31, 2016. The tenant chose not to participate in a move-out inspection with the landlord. The tenant gave the landlord his forwarding address by email on August 8, 2016. On August 22, 2016, the landlord made his application for monetary compensation and an order to keep the security deposit.

Landlord's Claim

The landlord submitted that at the end of the tenancy the tenant caused damage to the rental unit and property, and caused the landlord to incur other costs, as follows:

- damaged the front yard by failing to water it as required;

- damaged the back yard by not adding gravel as agreed after removing raised garden beds;
- installed a gate and did not remove it or restore the previous fencing;
- failed to properly clean the house; and
- failed to pay outstanding utilities.

The landlord stated that he gave the tenant permission to put in the gate and remove the raised garden beds, but those upgrades were for the tenant and were of no benefit to him. The landlord stated that he left water and hoses so the tenant could water the grass, but it would have been pretty tough for the tenant to do watering if he was frequently away.

The landlord submitted invoices and receipts for the landscaping, materials and unpaid utilities. The landlord also provided before and after photographs of the condition of the front and back yards and fence.

The landlord described the cleaning of the house, which included cleaning blinds, extensive dusting and window washing.

I note that in the landlord's photographs of the front lawn, while the grass at the beginning of the tenancy appeared somewhat brown, it also appeared full and even. At the end of the tenancy, there were small clumps of grass amid bare ground and some entirely bare areas where lawn previously grew.

The landlord has claimed compensation as follows:

1. \$1,335.44 for gate removal;
2. \$109.20 for topsoil;
3. \$47.05 for grass seed fertilizer;
4. \$392.28 for gravel;
5. \$225.00 for 15 hours of cleaning and labour, at a rate of \$15.00 per hour – the landlord specified that three hours were spent cleaning the house, six hours were spent over-seeding the lawn and six hours were spent spreading gravel; and
6. \$53.98 for unpaid utilities.

Tenant's Response

The tenant stated that at the beginning of the tenancy he did a lot of work on the house and property. The tenant stated that he had permission to remove the garden beds and put in a gate, but at no time did he say he would re-gravel the whole backyard.

The tenant stated that he did not know it was his responsibility to take care of the yard on a constant basis. The tenant stated that the lawn was not vibrant green at the beginning of the tenancy and there were watering restrictions, drought and extreme heat in 2015 and 2016. The tenant stated that the front yard had full southern exposure and in was quite hard to maintain. The tenant stated that the yard seemed to be beach sand, and there were no nutrients in the

soil. The tenant stated that the landlord told him not to worry about the grass, "because it's a weed and will grow back," and instead he should worry about the shrubs.

The tenant stated that the utilities were paid up to the end of July 2016.

The tenant also submitted photographs in support of his application. They show the front and back yards and the fence and gate at various times in the tenancy. The tenant's photographs of the front yard do not clearly show the condition of the grass at the end of the tenancy.

Analysis

Residential Tenancy Policy Guideline 1 sets out the general expectations of what property maintenance is expected of the landlord and the tenant. Particularly, item 2 on page 1-7 indicates that when a tenant has changed the landscaping, unless there is an agreement to the contrary, the tenant must return the landscaping to its original condition when they vacate. Under item 3, a tenant who lives in a single-family dwelling is responsible for routine yard maintenance, including cutting grass. Under item 5, the landlord is generally responsible for major projects such as tree cutting and pruning.

In this case the tenant installed a gate in the fence and did not remove it when he vacated. I therefore find that the landlord is entitled to some compensation for this work. However, I am not satisfied that the landlord sufficiently mitigated his loss in regard to removing the gate and returning the fencing. The landlord did not provide any other quotes to show that the rate he was charged for this work was within the norm. I therefore grant the landlord a nominal amount of **\$300.00** for the gate and fence.

The tenant did not restore gravel to the backyard as he was required to do. However, the tenant would only have been responsible for restoring gravel to the area he changed, not the entire back yard, and it is not clear from the landlord's claim whether the amount he has claimed is to restore gravel to only a portion of the yard or the entire yard. I therefore grant the landlord a nominal amount of **\$200.00** for the gravel, including the labour to spread the gravel.

I find that the tenant was responsible for general upkeep of the lawn, and he failed to do so. I find that the amounts the landlord has claimed for fertilizer and topsoil to be reasonable, and I grant the landlord **\$156.25** for those items. I also find the landlord's charge of **\$90.00** for the labour to over-seed the lawn to be very reasonable, and I grant the landlord that portion of his claim.

I find that the landlord's claim for three hours of cleaning to be reasonable, given the landlord's description of the work done within that time period. I grant the landlord **\$45.00** for cleaning. I accept the landlord's evidence, including a receipt, to show that there was an outstanding amount of **\$53.98** for unpaid utilities, and I grant the landlord this portion of his claim.

In accordance with section 38 of the Act, I allow the landlord to retain the tenants' \$600.00 security deposit in partial satisfaction of this monetary amount.

As the landlord's application was partially successful, he is also entitled to recovery of the **\$100.00** filing fee for the cost of this application.

Conclusion

The landlord is entitled to a **total monetary award of \$945.23**. I order that the landlord retain ~~this amount from the \$600.00 security deposit to partially satisfy this award. in full compensation of his award, and I grant the tenant~~ **landlord a monetary Order** under section 67 for the balance of the security deposit in the amount of ~~\$304.77~~ **the remaining \$345.23**. 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: March 9, 2017

Residential Tenancy Branch