



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, FF

Introduction

This hearing was convened in response to an application made December 14, 2016 by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damages to the unit - Section 67;
2. A Monetary Order for compensation - Section 67; and
3. 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”) to the forwarding address provided by the Tenants by registered mail on December 19, 2016 in accordance with Section 89 of the Act. 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 on December 24, 2016. 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 costs claimed?

Is the Landlord entitled to the compensation claimed?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on September 1, 2011 and ended on January 23, 2015. Rent of \$1,034.00 was payable on the first day of each month. The Tenants provided their forwarding address on January 23, 2015. The security deposit of \$500.00 has been returned to the Tenants. The Parties mutually conducted a move-in and move-out inspection with a copy of the inspection reports provided to the Tenants. The move-out inspection of the interior of the unit was completed however time ran out for an inspection of the exterior of the unit. The Parties agreed to meet the following day to complete the inspection however the Tenant did not attend. The Landlord completed the exterior inspection alone.

The Landlord states that she incurred travel costs to attend the unit to take care of rental matters in the late fall of 2014. The Landlord claims \$618.00.

The Landlord states that during and after the tenancy the yard was in a mess and required work. The Landlord states that the Tenants had agreed to grass cutting and snow removal in the tenancy agreement. The Landlord states that the Tenants were given a letter to clean the yard in December 2014 but failed to do so. The Landlord states that since the Tenants did not maintain the front and back yard during the tenancy they hired a company to do the work such as cleaning up the articles laying around, moving items and cutting the lawn. The Landlord claims \$464.63 and provides an invoice for this cost dated December 16, 2014. The Landlord states that at this time only the front lawn was completed and the remainder was completed on February 19, 2015. The Landlord claims an additional \$126.00 for these costs and provides the invoice.

The Landlord states that the Tenants left dog feces on the lawn and claims the costs of \$200.00 for its collection on January 24, 2015. The Landlord provided no invoice for this claimed cost.

The Landlord states that the Tenants left the 80 year old hardwood floors with scratches. The Landlord states that the Tenants were offered carpets for the floors at the outset but declined that offer. The Landlord states that the floors had been completely refinished in 2011 prior to the start of this tenancy. The Landlord claims \$2,419.63 for the costs of the repairs and provides an invoice dated June 12, 2015 and noted as a proposal and notations of payments made on June 29 and August 6, 2015.

The Landlord states that the Tenants' pets left the bedroom carpets and underlay damaged. The Landlord states that the carpets were new at move-in. The Landlord states that these were replaced by the company with the best out of three quotes for a cost of \$804.14. The Landlord provides the invoice dated February 19, 2015 for this cost but no quotes.

The Landlord states that the unit was rented for February 2015 and that this tenancy ended in May 2015 as the tenants were not happy with the coning and going of repair persons or the damages that were yet to be repaired. The Landlord states that these tenants ended the tenancy because the repairs were not done and the house was too much for them. The Landlord states that these tenants were paying \$1,200.00 per month. The Landlord states that after they moved out the Landlord made repairs to the unit and then rented the unit again for November 2015 at \$1,200.00 per month. The Landlord claims lost rental income for 3 months in the amount of \$3,600.00.

The Landlord states that the Tenants' pets caused the furnace filter to be dirty and ducts to require cleaning. The Landlord claims the costs to replace the filter and clean the ducts.

The Landlord states that the Tenants failed to leave the unit clean. The Landlord claims the cleaning costs of \$162.00 and provides an invoice dated January 29, 2015 that details the cleaning done to the unit.

The Landlord states that a few months prior to the onset of the tenancy the Landlord had placed top grade plywood and a special paint on the deck. The Landlord states that during the tenancy the Tenants used a power washer on the deck lifting the paint and damaging the wood. The Landlord states that the Tenants also left both the front and back steel doors with dents that the Landlord had repaired with filler and paint. The doors were new at move-in. The Landlord claims \$1,939.86 and provides an invoice with a paid notation dated June 25, 2015 that sets out the costs for both the deck and door repairs.

The Landlord states that the Tenants left drapes that were provided but not used during the tenancy in damaged condition. The Landlord states that the drapes were not replaced or repaired and that the new tenants had their own drapes. The Landlord claims \$1,328.00.

The Landlord states that the glass windows in the shed were found damaged by small holes and claims the costs for their replacement. The Landlord states that it is unknown when the damage was done. The Landlord provides an invoice dated July 6, 2015.

The Landlord states that the Tenants devastated the back yard with their pets and lack of watering the lawn. The Landlord states that the photos of the yard were taken in June 2015. The Landlord states prior to approximately June 2014 the Tenants had maintained the lawn perfectly. The Landlord states that after this date the Tenants stopped caring for the lawn and only some grass was left in December 2014. The Landlord states that the sprinkler system had also broke down during the tenancy and that although the Tenants said they would repair it, they did not. The Landlord states that since the Tenants did not water the lawn the ground shifted causing damage to the sprinkler system. The Landlord claims \$657.18 as the repair costs for the sprinkler system. The Landlord provides an invoice dated June 30, 2015.

Analysis

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. Based on the Landlord's undisputed evidence I find that the tenancy agreement required the Tenants to mow the lawn and that they failed to do so during the tenancy and at the end of the tenancy. Given the invoices I find that the Landlord has substantiated the costs for the repair of the yard in December 2014 and again in February 2015 for the amounts of **\$463.63** and **\$126.00**. Given the Landlord's evidence supported by the invoice I find that the Landlord has substantiated that the Tenants failed to leave the unit reasonably clean and that the Landlord incurred the costs claimed for the cleaning. I find the Landlord therefore entitled to **\$162.00**.

In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established. Given the lack of an invoice I find that the Landlord has failed to substantiate that the costs claimed for collection of animal feces were incurred and I therefore dismiss this claim. As the Landlord has not incurred any costs for the damaged drapes, I dismiss the costs claimed. Given the intervening tenancy and considering that no damage to any windows is noted in the move-out report, I find that the Landlord has not substantiated that the Tenants caused the damage to the windows in the shed. I therefore dismiss the costs claimed for the window replacements.

According to the Landlord's undisputed evidence immediately following the end of the tenancy another tenancy started at a higher rental rate and lasted four months during which time only the carpets were replaced. Following this intervening tenancy, 5 months elapsed before the next tenancy started in November 2015. There are no invoices that show any repairs done past June 2015. For this reasons I find that there were other factors involved in the Landlord's inability to rent the unit and that the

Landlord has failed to substantiate that the Tenants are responsible for lost rental income claimed for three months. I therefore dismiss this claim.

There is no evidence that the Tenants caused the sprinkler system to break down in the first instance. The Landlord also offers the argument that as the lawn was not watered the sprinkler system broke from the dry ground shifting. As I do not accept this circular argument I dismiss the claim for the repair of this system. The Tenants moved out during a season when lawn watering was not necessary and another tenancy started immediately thereafter apparently without use of the sprinkler system. As the Landlord failed to repair the sprinkler system, I find that the Landlord failed to mitigate losses to the yard. Given the intervening tenancy without use of the sprinkler system I also find that the Landlord has not substantiated that the Tenants caused all the damage to the state of the lawn by June 30, 2015. I therefore dismiss the Landlord's claim for the costs of the lawn restoration.

Policy Guideline #40 sets the useful life of hardwood floors at 20 years. Given the Landlord's evidence that the floors are 80 years old I find that there was no longer any value left to the floors and that the Landlords are therefore not entitled to any compensation for damage to the floors. I dismiss the claim for refinishing the floors.

Policy Guideline #40 provides that carpets have a useful life of 10 years. Based on the Landlords undisputed evidence I find that the Landlord has substantiated that the Tenants left the carpets damaged. Based on the Landlord's evidence that the carpets were new at move-in and given the length of the tenancy I find that there was approximately 6 years of life left to the carpets that was lost. As a result I find that the Landlord is entitled to 6/10 of the cost to replace the carpets in the amount of **\$482.52** ($\$804.16/10 \times 6$).

Policy Guideline #40 sets the useful life of a deck at 20 years. Based on the undisputed evidence of the Landlord I find that the Tenants left the deck damaged. Based on the Landlord's undisputed evidence that the deck was new at the outset of the tenancy and

given the length of the tenancy I find that the Landlord has substantiated a loss of 16 years of life. Given the invoice I find that the Landlord incurred the costs claimed and that the Landlord is entitled to **\$1,551.89** ($\$1,939.86/20 \times 16$).

Policy Guideline #1 provides that the Landlord is responsible for replacing furnace filters and cleaning ducts as necessary. As it is the Landlord's responsibility to maintain the furnace system I dismiss the costs for filters and duct cleaning.

As there is nothing in the Act that provides for any party to recoup costs of evidence production, I dismiss the costs claimed for the photos. As the Landlord is claiming travel costs to carry out its obligations under the Act I dismiss this claim.

As the Landlord's application has met with some success I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$2,886.04**.

Conclusion

I grant the Landlord an order under Section 67 of the Act for the remaining amount of **\$2,886.04**. 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: June 23, 2017

Residential Tenancy Branch