



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order for loss of income, for the cost of repairs, and for the recovery of the filing fee. The landlord also applied to retain the security deposit.

The landlord testified that on December 19, 2018, she served the tenant with the notice of hearing by registered mail. The tenant responded by serving the landlord with an evidence package which he uploaded to his electronic file as well. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to a monetary order for loss of income, cost of repairs, and for the recovery of the filing fee?

Background and Evidence

The landlord testified that the tenancy started on April 01, 2017 and ended on November 22, 2018. The monthly rent was \$925.00 due on the first of each month. Prior to moving in, the tenant paid a security deposit of \$950.00. The rental unit is an apartment. The landlord stated that the apartment building is 28 years old and she purchased the apartment 11 years ago.

Prior to this hearing, the parties attended a hearing on November 19, 2018 that was scheduled in response to an application by the landlord. In a decision dated November 20, 2018, the landlord was granted an order of possession and a monetary order for unpaid rent for the months of October and November 2019. The landlord acquired possession of the rental unit when the tenant moved out on November 22, 2018.

The landlord testified that the tenant left the unit in a condition that required considerable cleaning and repair. The landlord stated that the blinds and screens were missing or damaged and that there were several holes in doors and the drywall. The landlord also added that the stove and dishwasher were damaged beyond repair.

The landlord testified that the repairs took longer than expected and she started advertising the availability of the rental unit on January 15, 2019. The landlord did not file a copy of her advertisement but agreed that she advertised the unit at an increased rent of \$995.00. The landlord stated that shortly after advertising the vacancy, she found a tenant for February 01, 2019 and is claiming the loss of income that she suffered for the months of December 2018 and January 2019.

The landlord filed photographs and receipts to support her testimony and claim for:

1.	Dump fees	\$16.00
2.	Replace doors	\$133.27
3.	Replace and repair screens	\$159.60
4.	Repair drywall	\$525.00
5.	Replace appliances	\$300.00
6.	Replace blinds	\$779.50
7.	Loss of income for December 2018 and January 2019	\$1,850.00
8.	Filing fee	\$100.00
	Total	\$3,863.37

Analysis

1. Dump fees - \$16.00

The landlord stated that to cut down costs, she disposed of the garbage left behind herself instead of hiring someone to do it. The landlord filed a copy of the receipt. I find that the landlord's claim is reasonable and accordingly I award the landlord her claim.

2. Replace doors - \$133.27

The landlord filed photographs that depict damage to the doors that appear to be holes punched into the doors. I find that this damage is not a result of wear and tear and is more likely deliberate. The landlord also filed a copy of the receipt. I find that the landlord has proven her claim.

3. Repair and replace screens - \$159.60

Section 40 of the *Residential Tenancy Policy Guideline* speaks to the useful life of an item. I will use this guideline to assess the remainder of the useful life of the screens. As per this policy, the useful life of screens is ten years.

The landlord stated that since she purchased the rental unit 11 years ago she has not replaced the screens. Therefore by the end of the tenancy, the screens had outlived their useful life. Accordingly, the landlord's claim for \$159.60 is dismissed.

4. Repair drywall - \$525.00

Based on the photographs and receipt filed into evidence by the landlord, I find that there was considerable damage to the drywall which was not a result of normal wear and tear. Holes were punched into the walls. The landlord testified that the rental unit was painted just prior to the start of this tenancy.

In his written submission, the tenant stated that he damaged only one wall while moving his furniture. The move in inspection report signed by the tenant does not cite any damage to the walls. The tenant also stated that the damage that the landlord is claiming may have come from the workers doing the renovations.

Based on the documents filed into evidence and the landlord's testimony, I find that the landlord is entitled to recover the cost of repair to the drywall.

5. Replace appliances - \$300.00

The landlord testified that the glass plate on the stove was smashed and a part of the dishwasher was removed rendering it inoperable. The photographs filed into evidence corroborate the landlord's testimony. The landlord also added that the gasket of the refrigerator was damaged, but she repaired it herself and is not making a monetary claim towards the repair of the refrigerator. The landlord replaced the stove and the dishwasher and filed receipts as proof. The landlord is making a claim in the amount of what it would cost to replace the appliances with second hand appliances. I find that the landlord's claim is reasonable and I award her \$300.00 towards the replacement of the appliances.

6. Replace blinds - \$779.50

The landlord stated that four of the five blinds were missing and the one that was left behind was broken.

The landlord had to replace the blinds with custom made blinds as due to the age of the rental unit, she was not able to purchase the appropriate size blinds, off the shelf.

Based on section 40 of the *Residential Tenancy Policy Guideline* the useful life of blinds is ten years. The landlord stated that since she purchased the rental unit 11 years ago she has not replaced the blinds. Therefore by the end of the tenancy, the blinds had outlived their useful life. Accordingly, the landlord's claim for \$779.50 is dismissed.

7. Loss of income for December 2018 and January 2019 - \$1,850.00

The landlord testified that due to the time it took to repair the rental home, she was unable to rent the unit for the months of December 2018 and January 2019. The landlord also testified that she advertised the availability of the unit on January 15, 2019 at a higher rent and found a tenant for February 01, 2019. The landlord is claiming the loss of income she incurred for the months that the unit remained vacant.

Section 7 of the Act provides:

Liability for not complying with this Act or a tenancy agreement

- 7** (1) *If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.*
- (2) *A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.*

The landlord's claim for loss of income is subject to the statutory duty to mitigate the loss by completing the repairs in a timely manner and attempting to re-rent the premises at reasonable rent.

In this case, the tenancy ended on November 22, 2018. Based on the documents filed into evidence, I find that the landlord carried out repairs in the latter part of December 2018 and advertised the availability on January 15, 2019, at a higher rent. Attempting to rent the unit at a higher rent will not constitute mitigation. Accordingly I find that the landlord did not do whatever is reasonable to minimize the loss of income that she suffered and therefore her claim for loss of income is denied.

8. Filing fee - \$100.00

Since the landlord has proven most of her case, I award her the recovery of the filing fee.

Overall the landlord has established a claim as follows:

1.	Dump fees	\$16.00
2.	Replace doors	\$133.27
3.	Replace and repair screens	\$0.00
4.	Repair drywall	\$525.00
5.	Replace appliances	\$300.00
6.	Replace blinds	\$0.00
7.	Loss of income for December 2018 and January 2019	\$0.00
8.	Filing fee	\$100.00
	Total	\$1,074.27

The landlord has established a claim in the amount of \$1,074.27. I order that the landlord retain the security deposit of \$450.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$624.27. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order of **\$624.27**

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: April 23, 2019

Residential Tenancy Branch