



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNR, MNSD, MND, MNDC, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order for unpaid rent, unpaid utilities, repairs and for the recovery of the filing fee. The landlord also applied to retain the security and pet deposits in partial satisfaction of the claim.

The landlord testified that he served the tenant with the notice of hearing on May 24, 2019, by registered mail, to the forwarding address provided by the tenant. The landlord filed a copy of the tracking slip. 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 unpaid rent, unpaid utilities, repairs and the filing fee? Is the landlord entitled to retain the security and pet deposits?

Background and Evidence

The landlord testified that the tenancy started on December 01, 2016 for a fixed term. At the end of the term the parties entered into another fixed term tenancy that started on January 01, 2018 with an end date of June 30, 2019. The monthly rent was \$3,550.00 payable on the first of each month. Prior to moving in the tenant paid a security deposit of \$1,775.00 and a pet deposit of \$1,775.00.

A copy of the tenancy agreement and addendum was filed into evidence. A term in the addendum states:

It is understood that water, sewage, recycling, garbage, hydro, heat, gas, alarm monitoring, internet, cable and telephone are not provided or paid for by the Landlord and are to be to the account of the Tenant.

On March 01, 2019, the tenant gave written notice to end the tenancy effective April 01, 2019. The tenant moved out on April 05, 2019. A move out inspection was conducted on April 05, 2019 and a report was filed into evidence.

The landlord stated that the tenant handed over possession of the rental unit on April 05, 2019 and did not pay any rent for April 2019. The landlord was able to find a tenant for April 2019 but stated that due to the condition of the unit the new tenant could not move in before April 20, 2019.

The tenant sent the landlord her forwarding address in writing on May 07, 2019. The landlord agreed that he is holding the security and pet deposits in the total amount of \$3,550.00. The landlord made this application to retain the deposits in partial satisfaction of his monetary claim, in a timely manner, on May 17, 2019.

The landlord stated that the tenant did not pay some of the utilities charged by the local municipality and they were automatically debited to his account. When the landlord became aware of this, he informed the tenant in writing on March 01, 2019. The landlord filed copies of the invoices. The landlord stated that the tenant did not reimburse the landlord.

The landlord stated that the flooring of the rental unit had multiple pet urine stains and the unit reeked of pet waste. The landlord had to rent ozone machines to ventilate the unit and rid it of the odour. The landlord stated that unit was not cleaned, many light bulbs were burnt out and the yard was not mowed or cleaned up. The landlord filed photographs and invoices to support his testimony.

The landlord testified that he looked for another tenant and found one for April 01, 2019. The tenant moved out on April 05, 2019 and due to the pet odour and the condition of the rental unit after the tenants moved out, the rental unit was not ready for the new tenant to move in until April 20, 2019. The landlord is claiming the loss of income he incurred for the month of April 2019.

The landlord is claiming the following:

1.	Utilities	\$6,165.34
2.	Ozone Machine	\$115.00
3.	Replacing light bulbs	\$532.00
4.	Painting	\$750.00
5.	Cleaning and repairs	\$640.00
6.	Yard cleaning and mowing	\$1,050.00
7.	Garbage removal	\$120.00
8.	Loss of income	\$3,550.00
9.	Tax on repairs	\$107.85
9.	Filing fee	\$100.00
	Total	\$13,130.19

Analysis

Based on the sworn testimony of the landlord and documents filed into evidence by the landlord and in the absence of evidence to the contrary, I find as follows:

1. Utilities - \$6,165.34

The landlord filed a copy of the addendum and the invoices issued by the local municipality. The evidence indicates that the tenant was responsible for the cost of utilities and that the landlord covered the cost of utilities during the period the tenant occupied the rental unit. I find that the landlord is entitled to his claim.

2. Ozone machine - \$115.00

I accept the landlord's evidence that the odour of pet urine and feces was present in the rental unit and that an ozone machine was needed to rid the unit of these odours. I grant the landlord his claim.

3. Replacing light bulbs - \$532.00

The landlord filed photographs and a copy of the move out inspection report. The photographs and the move out inspection report indicate that some bulbs were burnt out but do not provide information on how many bulbs were burnt out. In the absence of proper information, I find that 38 burnt out bulbs seems excessive and therefore I deny the landlord's claim for the cost of replacing bulbs.

4. Painting - \$750.00

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 paint. As per this policy, the useful life of interior painting is four years. The landlord stated that the unit was last painted at the start of tenancy in December 2016 and therefore by the end of the tenancy, the painting had about 19 months of useful life left. Accordingly, I find that the landlord is entitled to \$453.12 which is the prorated value of the remainder of the useful life of the paint.

5. Cleaning and repairs - \$640.00

6. Yard cleaning and mowing - \$1,050.00

7. Garbage removal - \$120.00

The landlord provided sufficient documentary evidence by way of photographs and invoices to support his claim for items #5, #6 and #7.

8. Loss of income - \$3,550.00

Section 45(2) of the *Residential Tenancy Act* states that a tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that:

- (a) Is not earlier than one month after the date the landlord receives the notice
- (b) Is not earlier than the date specified in the tenancy agreement as the end of the tenancy and
- (c) Is the day before the day in the month on which the tenancy is based that rent is payable under the tenancy agreement.

In this case the tenant was in a fixed term tenancy that would end on June 30, 2019. The tenant ended the tenancy on April 05, 2019 by giving notice on March 01, 2019. Since rent was due on the first of each month, by giving notice on March 01, 2019, the earliest the tenant could end the tenancy was April 30, 2019.

Accordingly, I find that the tenant breached the tenancy agreement causing the landlord to incur a loss of rent for 20 days in April. The landlord made efforts to mitigate his losses and was successful in finding a tenant for April 20, 2019. I grant the landlord \$2,366.66 which is the prorated rent for 20 days.

9. Tax on repairs - \$107.85

The landlord's claim has been reduced and therefore the tax on the items that have been granted to the landlord works out to be \$66.35.

10. Filing fee - \$100.00

Since the landlord has proven his claim, I grant the landlord the filing fee of \$100.00.

Overall the landlord has established a claim as follows:

1.	Utilities	\$6,165.34
2.	Ozone Machine	\$115.00
3.	Replacing light bulbs	\$0.00
4.	Painting	\$453.12
5.	Cleaning and repairs	\$640.00
6.	Yard cleaning and mowing	\$1,050.00
7.	Garbage removal	\$120.00
8.	Loss of income	\$2,366.66
9.	Tax on repairs	\$66.35
10.	Filing fee	\$100.00
	Total	\$11,076.47

Overall the landlord has established a claim of \$11,076.47. I order that the landlord retain the security deposit of \$1,775.00 plus the pet deposit of \$1,775.00 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 \$7,526.47. 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 **\$7,526.47**.

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: August 19, 2019

Residential Tenancy Branch