



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PEMBERTON HOLMES PROPERTY
MANAGEMENT and [tenant name suressed to protect privacy]

DECISION

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

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order to recover loss of income, cost of repairs, cleaning and the filing fee. The landlord also applied to retain the security deposit in satisfaction of her claim. Both parties attended this hearing and were given full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The parties represented themselves. The landlord was accompanied by her agent.

As both parties were in attendance, I confirmed service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*. The tenant raised the issue of evidence served two days late. Since the tenant had 13 days to review the evidence, I find that it is sufficient time to do so.

Both parties provided extensive documentary evidence. All parties' testimonies, and evidence have been considered in the making of this decision. As this matter was conducted over 80 minutes of hearing time, I have considered all the written evidence and oral testimony provided by the parties but have not necessarily alluded to all the evidence and testimony in this decision.

Issues to be decided

Is the landlord entitled to a monetary order to recover loss of income, cost of repairs, cleaning and the filing fee and to retain the security deposit in satisfaction of her claim?

Background and Evidence

The background facts are generally undisputed. The tenancy started on October 15, 2017 and ended on April 30, 2019.

Prior to moving in the tenant paid a security deposit of \$1,600.00. The landlord agreed that she received the tenant's forwarding address on May13, 2019, made this application on May 24, 2019 and is still holding the security deposit.

The rental unit is a 5-bedroom house which was occupied by various tenants through the term of the tenancy. Tenant GL remained in the rental unit through the entire tenancy and was responsible for collecting rent from his room mates and handing it over to the landlord.

The landlord stated that she purchased the home in 2017 and that GL and his roommates were the first tenants to occupy the home. The home was built in the 1950s and was fully renovated in the 1980s.

The landlord testified that the home was vandalized during the tenancy and the appliances, walls and fixtures were damaged. The glass on the stove was smashed and the shelves in the refrigerator were broken. The bottom of the dishwasher was completely rusted on the inside. The landlord stated that the appliances were in a state of neglect and were damaged beyond repair. The landlord had to replace them and dispose of the damaged appliances.

The tenant stated that vandalism did not take place and that the damage was from wear and tear and accidents. The landlord stated that the tenant left behind a lot of unwanted possessions and did not clean the house. The tenant replied that he cleaned his portion of the house and left for work after requesting his roommates to complete the cleaning of the rental unit.

The landlord also stated that the keys were never returned and that she had to rekey all the locks in the home. The tenant stated that he told his room mate to put the keys in the mailbox. The landlord stated that the carpets were heavily stained, and the walls were damaged.

The landlord stated that the 1,000 square foot crawl space was packed with items that included bags of garbage and unwanted belongings. The landlord had to hire a company to clear out junk from the crawl space and the house.

The landlord stated that it took her four months of restoration work to get the unit to a condition in which it could be rented out again. The landlord is claiming the loss of income she suffered for this time.

The landlord provided photographs and invoices to support her monetary claim.

The landlord is claiming the following:

1.	Loss of rent	\$13,312.00
2.	Junk Removal	\$1,670.54
3.	Change of locks	\$500.00
4.	Replace appliances	\$3,593.84
5.	Replace carpets	\$7,331.84
6.	Cleaning	\$2,451.33
7.	Painting	\$4,830.00
8.	Filing fee	\$100.00
	Total	\$33,789.55

Analysis

1. Loss of rent - \$13,312.00

Based on the testimony of the parties and the documents filed into evidence, I find that the tenant left the unit in a condition that required extensive work before it could be rented out again. The landlord stated that she found a tenant for September 01, 2019 which is four months after the tenant moved out. Based on the evidence, I find that the landlord's claim for loss of rent for four months is excessive. I find it reasonable to award the landlord the equivalent of one month's rent in the amount of \$3,328.00

2. Junk Removal - \$1,670.54

Based on the testimony of the landlord, I accept that she purchased the home in the summer of 2017 and that the tenant was the first to rent it from her in October 2017. Based on these facts it is reasonable to assume that the crawl space was not packed with unwanted belongings at the time the landlord purchased the home. Even though the tenant GL stated that he did not place his unwanted belongings in the crawl space, I find that it is possible that GL's roommates may have done so. Since the crawl space was full of junk at the end of tenancy, I find that the tenant is responsible for the removal of junk. I grant the landlord her claim.

3. Change of locks - \$500.00

Section 25 of the *Residential Tenancy Act* states that upon the request of a tenant at the start of a new tenancy the landlord must rekey or alter the locks so that keys or other means of access given to the previous tenant do not give access to the rental unit and pay all costs associated with the changes.

As per section 25, the landlord would be changing the locks if the new tenant requested it and would be doing so at her own cost. However, in this case the tenant has not proven that he returned the keys to the landlord and therefore the landlord was forced to change the locks prior to a new tenant moving in. Accordingly I grant the landlord her claim for the cost of doing so.

4. Replace appliances - \$3,593.84

Section 40 of the *Residential Tenancy Policy Guideline* addresses the useful life of an item. I will use this guideline to assess the remainder of the useful life of the appliances. As per this policy, the useful life of appliances such as these is 10 years.

The landlord stated that she was not aware of the age of the appliances, but they were in perfect working order at the start of tenancy. The landlord stated that the home was fully renovated in the 1980s and therefore I find on a balance of probabilities that it is possible that the appliances were replaced at that time. Therefore by the end of the tenancy, the appliances were at least 30 years old. Accordingly, I find that the appliances had outlived their useful lives and would have to be replaced at the landlord's cost. The landlord's claim is dismissed.

5. Replace carpets - \$7,331.84

Based on Section 40 of the *Residential Tenancy Policy Guideline* the useful life of carpets is 10 years. Based on the testimony of the landlord, I find on a balance of probabilities that the carpets were also at least 30 years and therefore had outlived their useful life. The landlord's claim is dismissed.

6. Cleaning - \$2,451.33

Based on the photographs filed into evidence by the landlord, I find that the tenant did not fully clean the rental unit. The landlord filed photographs and a copy of the invoice to support her claim. I grant the landlord her claim.

7. Painting - \$4,830.00

Based on Section 40 of the *Residential Tenancy Policy Guideline* the useful life of paint is 4 years. The unit was painted just prior to the start of tenancy and the landlord filed evidence to support her testimony that the walls were left in a damaged condition. At the end of tenancy the paint had two years of useful life left. Accordingly I grant the landlord half her claim in the amount of \$2,415.00.

8. Filing fee- \$100.00

The landlord is partially successful in her application and therefore I grant the landlord the recovery of the filing fee.

Overall the landlord has established the following claim:

1.	Loss of rent	\$3,328.00
2.	Junk Removal	\$1,670.54
3.	Change of locks	\$500.00
4.	Replace appliances	\$0.00
5.	Replace carpets	\$0.00
6.	Cleaning	\$2,451.33
7.	Painting	\$2,415.00
8.	Filing fee	\$100.00
	Total	\$10,464.87

Overall the landlord has established a claim of \$10,464.87. I order that the landlord retain the security deposit of \$1,600.00 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 \$8,864.87. 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 in the amount of **\$8,864.87**.

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: September 23, 2019

Residential Tenancy Branch