



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MND, MNSD, FFL

Introduction

On November 4, 2018, the Landlords submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking money owed or compensation for damage or loss; a monetary order for unpaid rent; a monetary order for damage or repairs to the unit; and to keep the security deposit towards the claims.

The matter was set for a conference call hearing. The Landlords and Tenant attended the teleconference hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The evidence was reviewed and confirmed received by each party. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

The Landlord and Tenant were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

During the hearing the Landlord withdrew a monetary claim for replacement cost of baseboards.

Issues to be Decided

- Is the Landlord entitled to a monetary order to recover unpaid rent?
- Is the Landlord entitled to a monetary order for damage to the rental unit?

- Is the Landlord entitled to keep the security deposit towards unpaid rent?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlords and Tenant testified that the tenancy began on November 1, 2016, as a one-year fixed term tenancy that continued thereafter on a month to month basis. Rent in the amount of \$1,700.00 was to be paid to the Landlord by the first day of each month. The Tenant paid the Landlords a security deposit of \$850.00. The parties testified that the Tenant is responsible for 60% of the hydro and gas utility costs. Both parties provided testimony that the tenancy ended on November 1, 2019 when the Tenant moved out of the rental unit.

The Landlord is seeking compensation as follows:

October 2019 Rent	\$300.00
November 2019 Rent	\$1,700.00
Unpaid Utilities	\$240.65
Damage	\$830.64

October 2019 Rent \$300.00

The Landlord is seeking compensation in the amount of \$300.00 for unpaid October 2019 rent. The Landlord testified that the Tenant only paid \$1,400.00 of the \$1,700.00 that was owing under the tenancy agreement. The Landlord provided a payment ledger which provides the dated and amount of payments that were received from the Tenant throughout the tenancy.

The Tenant submitted that she was forced to move out because the Landlord was not protecting her rights as a Tenant. The Tenant replied that she paid the Landlord \$300.00 in cash one week prior to moving out of the rental unit. The Tenant testified that she did not get a receipt.

When the Tenant was asked how she normally paid her rent she replied that she normally paid rent by e-transfer.

The Landlord replied that the Tenant did not pay the \$300.00 and the Landlord referred to emails from September 2019 where the Tenant states she will pay the \$300.00 using e-transfer.

The Landlord testified that they only received cash payments from the Tenant on two occasions and both occasions they gave a receipt.

November 2019 Rent \$1,700.00

The Landlord is seeking compensation in the amount of \$1,700.00. The Landlord testified that the Tenant did not give proper written notice to end the tenancy and the Landlord was not able to re-rent the unit for the entire month of November 2019.

The Landlord testified that on October 19, 2019 they received a text message from the Tenant, and on October 24, 2019 the Landlord received an email from the tenant stating that she is moving out.

The Tenant testified that she gave the Landlord verbal notice close to two months before she moved out. The Tenant testified her written notice was given to the Landlord on October 24, 2019 and she acknowledged that she did not give the Landlord a full month of written notice.

The Tenant submitted that the Landlord sent her an email saying she did not have to give proper notice to end the tenancy.

Unpaid Utilities \$233.05

The Landlord is seeking compensation to recover utility costs. The Landlord testified that they are seeking the following amounts:

Hydro	August and September 2019	\$134.80
Hydro	October 2019	\$40.13
Gas	August and September 2019	\$14.25
Gas	October 2019	\$52.22

For October 2019 utility costs the Landlord is claiming \$84.75 rather than \$92.35.

The Landlord provided copies of an email sent to the Tenant dated October 22, 2019 which provides a breakdown of the amount of utilities the Tenant owes and contained attachments of the actual bills. The Landlord provided a copy of the Hydro bill for the period of July 27 to September 26, 2019 in the amount of \$224.67. 60% of the bill amounts to \$134.80 as claimed by the Landlord.

The Landlord provided a copy of a gas bill dated September 25, 2019 in the amount of \$23.75. 60% of the bill amounts to \$14.25 as claimed by the Landlord.

The Landlord did not provide copies of any other utility bills.

The Landlord provided a copy of an email sent by the Tenant dated October 24, 2019 and October 25, 2019. the Tenant writes "*As landlords you let us down and demanded me to pay for the 60% utilities for several months. Practically with low usage of my unit , I have been paying for downstairs drug house in the illegal suite. I refuse to pay any longer.*" The Tenant states she is not paying nothing else. No utilities, no scratches, no bail holes from the pictures

The Tenant testified that she did not pay the \$84.75 that the Landlord requested for the month of September and October 2019. The Tenant testified that she did not make any utility payments to the Landlord after October 22, 2019 when the Landlord requested payment. The Tenant testified that she did not have the money at that time.

Door Locks

The Landlord is seeking compensation of \$87.96 for the cost to change two deadbolt door locks. The Landlord testified that the Tenant changed the locks during the tenancy. The Landlord testified that the Tenant left the locks and keys to the locks behind when she vacated the unit. The Landlord testified that he uses a smart key lock system which allows the Landlord to change the locks easily. The Landlord testified that the Tenant changed the locks to a different style of lock. The Landlord provided a receipt for the replacement cost of the deadbolt locks.

In reply, the Tenant testified that two years prior to the end of the tenancy she lost the keys to the original door locks, so she wanted the locks to be changed. The Tenant testified that the Landlord agreed, and she purchased a replacement lock of the same type and gave the Landlord a spare key. The Tenant testified that she left the locks and keys at the end of the tenancy.

The Landlord testified that the Tenant changed the locks and provided him with a key; however, she did not receive prior permission.

Bedroom Doors

The Landlord is seeking compensation of \$70.42 for the replacement cost of two hollow core bedroom doors. The Landlord testified that the Tenant is responsible for damage to the doors that could not be repaired and needed to be replaced. The Landlord testified that the Tenant kept a dog in the bedrooms and the dog would scratch at the doors causing damage. The Landlord provided photographs of the doors before the tenancy and at the end of the tenancy.

The Landlord testified that the doors were approximately 20 years old but were in good condition at the start of the tenancy. The Landlord provided a receipt for the replacement cost.

In reply, the Tenant testified that the house is 60 years old and the doors were very old. The Tenant testified that doors had pre-existing damage and there were patches on the door. The Tenant testified that the Landlord agreed to a dog on a part time basis.

Master Bathroom Door

The Landlord is seeking compensation of \$46.99 for the replacement cost of the bathroom door. The Landlord testified that the Tenant is responsible for damage to the door lock that was broken and could not be repaired.

The Landlord provided photographs of the door before the tenancy and at the end of the tenancy. The Landlord provided a receipt for the replacement cost of the door.

In reply, the tenant testified that the door and knob was breaking and peeling due to normal wear and tear. The Tenant testified that the Landlord promised to repair the door but did not do so.

Wall Patches and Filler

The Landlord is seeking compensation for the repair of holes created by wall hangers in the hallway and second bedroom. The Landlord hired a contractor to complete the repairs. The Landlord is seeking compensation of \$11.98 for wall patches; \$19.80 for filler and \$60.00 for the labor to complete the wall repair. The Landlord provided a photograph of the holes.

In reply, the Tenant provided testimony agreeing that there were a few patches required due to hanging pictures and shelves.

Floor Tile Replacement

The Landlord is seeking compensation for the replacement cost of four-year-old rubber utility floor tiles located between the garage and laundry room. The Landlord testified that Tenant removed the floor tiles and failed to replace them at the end of the tenancy. The Landlord provided before and after photographs of the floor tile area. The Landlord provided a receipt for the replacement cost of the rubber tiles. The Landlord testified that they located the floor tiles, but they were damaged. The Landlord did not provide a photograph of any damaged tiles.

In reply, the tenant testified that the floor tiles are a grey plastic material which were old. The Tenant testified that water from the washing machine was leaking onto the five-foot-wide space where the tiles were located. The tenant testified that damage to the tiles is due to normal wear and tear. The Tenant removed the tiles.

The Tenant testified that she told the Landlord that she would put the tiles back at the end of the tenancy and the Landlord replied by telling her not to because he is going to renovate the floor coverings. The Tenant testified that the floor area is approximately 25 square feet and the Landlord is attempting to claim compensation for materials greater than 25 square feet.

Paint

The Landlord is seeking compensation of \$78.22 for the cost of one can of paint. The Landlord testified that the Tenant painted a bedroom wall without permission of the Landlord. The Landlord provided before and after photographs of the wall. The Landlord provided a receipt for the cost of the paint.

The Landlord testified that the rental unit was last painted in 2006 prior to the Tenant moving into the unit.

In reply, the Tenant testified that she does not agree with the Landlord's claim. She testified that she painted the wall at the start of the tenancy and that there should be no issue with the wall being a light blue color.

the Tenant testified that the Landlord gave her permission to paint the wall and provided her with the paint. She testified that there was no condition that she was required to repaint the wall back to its original color. She testified that the Landlord was in the rental unit many times and never raised it as an issue.

In reply the Landlord testified that he never gave the Tenant permission to paint the wall. He testified that the Tenant was provided with touch up paint of the original color. He testified that she was verbally told that she would have to revert it back to the original color.

Labor Costs

The Landlord is seeking to recover \$300.00 for his labor costs to repair the rental unit. The Landlord is charging for ten hours at \$30.00 per hour.

The Landlord testified that he is seeking \$30.00 for the cost to remove and replace baseboards in the third bedroom that were chewed by the Tenant's dog. The Landlord is also seeking compensation for the labor to replace the doors and the rubber tile.

In reply, the Tenant testified that she disagrees with the claim regarding the doors and tile, but she agreed to the claim for the labor cost regarding replacement of the baseboards.

Carpet Replacement

The Landlord is seeking \$160.00 towards the cost to install carpet into the unit. The Landlord testified that the existing hardwood flooring in the unit had pre-existing damage. The Landlord testified that the Tenant is responsible for some damage to the flooring, so the Landlord is assigning 10% of the cost to refinish the hardwood floors and transferring that amount towards the cost to install carpeting.

The Landlord provided photographs of the flooring taken at the start and end of the tenancy. The Landlord provide a copy of the invoice for the cost to install carpeting.

In reply, the Tenant testified that she disagrees with this claim. She testified that the flooring was 60 years old. The Tenant referred to her photographic evidence where she provided a dozen color photographs showing the condition of the hardwood floors.

Security Deposit

The Landlord applied against the security deposit on November 4, 2019 to keep the \$850.00 security deposit in partial satisfaction of his claims.

The Landlord testified that they sent the Tenant an email proposing a date for a move out inspection and the Tenant did not respond other than saying she wanted her deposit returned. The Landlord provided a copy of an email dated October 26, 2019 where the Landlord proposes an inspection for November 1, 2019 at 10:00 am.

The security deposit of \$850.00 will be applied to any successful amounts awarded to the Landlord.

Analysis

When a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. To prove the claim, the Applicant must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act, Regulation or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss; and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Residential Tenancy Branch Policy Guideline # 16 states the following with respect to types of damages that may be awarded to parties:

An arbitrator may award monetary compensation only as permitted by the Act or the common law. In situations where there has been damage or loss with respect to property, money or services, the value of the damage or loss is established by the evidence provided.

Residential Tenancy Policy Guideline #1 Landlord & Tenant - Responsibility for Residential Premises is intended to help the parties to an application understand issues that are likely to be relevant and may also help parties know what information or evidence is likely to assist them in supporting their position. The policy guideline provides that a tenant is generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest. A tenant is not responsible for reasonable wear and tear to the rental unit or site. The landlord is responsible for repairs to appliances provided under the tenancy agreement unless the damage was caused by the deliberate actions or neglect of the tenant.

Residential Tenancy Branch Policy Guideline #40 Useful Life of Building Elements is a general guide for determining the useful life of building elements for considering applications and determining damages. When applied to damage(s) caused by a Tenant, or the Tenant's pets, the arbitrator may consider the useful life of a building element and the age of the item. The Guideline provides that the arbitrator may consider the age of the item at the time of replacement and the useful life of the item when calculating the Tenant's responsibility for the cost or replacement.

Based on the evidence before me, the testimony of the Landlords and Tenant, and on a balance of probabilities, I make the following findings:

October 2019 Rent \$300.00

I find that the Landlord has provided the stronger evidence that the tenant failed to pay all the rent owing for October 2019. The Landlord provided a payment ledger and the Tenant did not sufficient evidence to support that she paid the Landlord \$300.00 in cash.

I award the Landlord the amount of \$300.00 for unpaid October 2019 rent.

November 2019 Rent \$1,700.00

Despite the Tenants claim that the Landlord told her she could move out without giving proper written notice, there is insufficient evidence from the Tenant to prove this.

I find that the Act requires the Tenant to give the Landlord written notice to end tenancy a full month prior to the date in which rent is to be paid. I find that the Tenant did not give proper notice and the Landlord was not put in a position to be able to rent the unit out for November 2019. I find that the Landlord did not re-rent the unit for November 2019 and the Landlord suffered a loss of rent.

I find that the Tenant owes the Landlord \$1,700.00 for November 2019 rent.

Unpaid Utilities

I find that the Tenant owes the Landlord \$134.80 for an unpaid hydro bill for August and September 2019 and \$14.25 for an unpaid gas bill for September 2019.

The Landlord failed to provide a copy of the other hydro bills and gas bills and therefore I am unable to verify the Landlords claims for these unpaid utilities.

I award the Landlord the amount of \$149.05. The remaining claims for utility costs are dismissed without leave to reapply.

Door Locks

I find the Tenant lost the keys to the rental unit and replaced the deadbolt locks of the rental unit. I find that there is insufficient evidence from the Tenant to prove that she had permission from the Landlord to purchase the style of locks that she purchased. I find because she lost the keys to the original locks, she is responsible for replacing the same type of locks that were originally present on the doors.

I grant the Landlord the amount of \$87.96 for the cost of the deadbolt locks. I order the Landlord to return the deadbolt locks that the Tenant purchased to the Tenant.

Bedroom Doors and Bathroom Door

I have reviewed the Landlords photographic evidence of damage to the doors. I find that the doors are very old, and I find that they show signs of peeling; splitting and are very scratched.

The Policy Guideline for Useful Life of Building Elements provides that the useful life of a door is 20 years. I find that the doors have reached their useful life expectancy however they still held some value and I find the Tenant responsible for some damage.

I grant the Landlord a nominal award of \$20.00 towards the replacement cost of the doors.

Wall Patches

The Tenant agreed that there were a few patches required due to her hanging pictures and shelves.

I grant the Landlord the amount claimed of \$31.78 for materials and the labor cost to repair the holes. (labor cost included below)

Floor Tile Replacement

The Landlord testified that he located the floor tiles but did not re-install them because they were damaged. The Landlord did not provide photographs to show damage to the

tiles or prove that the Tenant was responsible for damage to the tiles beyond normal wear and tear.

The Landlords claim for compensation for tiles is dismissed without leave to reapply.

Paint

I find that the Tenant painted a wall in the rental unit a different color than the original color. There is insufficient evidence from the Tenant to prove that she had permission of the Landlord to paint the wall and not have to put it back to its original color.

I find that the Tenant is responsible for the Landlords cost for the paint purchase and labor cost to repaint the wall at the end of the tenancy.

I award the Landlord the amount of \$77.55 for paint costs.

Labor

I find that the Landlord is entitled to compensation for the labor cost for to patch the wall and replace the baseboards, and for painting.

The Tenant agreed to the claim for the labor cost regarding replacement of the baseboards. I find that the Tenant was responsible for wall damage and for the cost to repaint the wall.

I award the Landlord \$90.00 for labor costs for painting and baseboards.

Carpet Purchase and Installation

The Policy Guideline for Useful Life of Building Elements provides that hardwood flooring has a useful life of 20 years. I find that the hardwood flooring is likely 60- years old and has reached the end of its useful life. I find that it is not clear how the landlord determined the tenant is responsible for 10 % of the damage present.

The Landlord opted to install carpet rather than replace or attempt to refinish the hardwood flooring.

The Landlords claim for compensation towards carpet costs is dismissed without leave to reapply.

Monetary Award

The Landlord has established a monetary claim in the amount of \$2,456.34 for unpaid rent, repair and labor costs.

Security Deposit

I authorize the Landlord to keep the security deposit of \$850.00 towards the monetary award.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$2,556.34. After setting off the security deposit of \$850.00 towards the award of \$2,556.34, I find that the Landlord is entitled to a monetary order for the balance of \$1,706.34. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenant ended the tenancy without proper written notice and the Landlord suffered a loss of rent. The Landlord established that the Tenant is responsible for damage and repairs to the rental unit.

The Landlord has established a monetary claim in the amount of \$2,456.34. I order that the Landlord can keep the security deposit in the amount of \$850.00 in partial satisfaction of the Landlord's award

I grant the Landlord a monetary order in the amount of \$1,706.34.

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 10, 2020

Residential Tenancy Branch